

**NOMINATIONS TO THE
DEPARTMENT OF COMMERCE,
DEPARTMENT OF HOMELAND SECURITY,
U.S. MARITIME ADMINISTRATION,
SURFACE TRANSPORTATION BOARD,
AND NATIONAL TRANSPORTATION SAFETY BOARD**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

JULY 27, 2006

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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CONTENTS

Hearing held on July 27, 2006	Page 1
Statement of Senator Allen	9
Statement of Senator Burns	46
Statement of Senator DeMint	3
Prepared statement	4
Statement of Senator Dorgan	3
Statement of Senator Inouye	10
Statement of Senator Lott	42
Statement of Senator Stevens	1

WITNESSES

Cohen, Admiral Jay M., nominee to be Under Secretary for Science and Technology, Department of Homeland Security	10
Prepared statement	11
Biographical information	12
Connaughton, Sean T., nominee to be Administrator of the U.S. Maritime Administration	20
Prepared statement	21
Biographical information	22
Davis, Hon. Tom, U.S. Representative from Virginia	6
Prepared statement	8
Domenici, Hon. Pete V., U.S. Senator from New Mexico	5
Nottingham, Charles D., nominee to be a Member of the Surface Transportation Board	25
Prepared statement	26
Biographical information	27
Reed, Hon. Jack, U.S. Senator from Rhode Island	6
Sumwalt III, Robert L., nominee to be a Member of the National Transportation Safety Board	32
Prepared statement	34
Biographical information	34
Warner, Hon. John, U.S. Senator from Virginia	3
Wienecke, Nathaniel F., nominee to be Assistant Secretary for Legislative and Intergovernmental Affairs, Department of Commerce	15
Prepared statement	16
Biographical information	17

APPENDIX

Wolf, Hon. Frank R., U.S. Representative from Virginia, prepared statement ..	49
Response to written questions submitted by Hon. Barbara Boxer to Admiral Jay M. Cohen	53
Response to written questions submitted by Hon. Conrad Burns to Charles D. Nottingham	56
Response to written questions submitted by Hon. John McCain to Admiral Jay M. Cohen	49
Response to written questions submitted by Hon. Trent Lott to:	
Admiral Jay M. Cohen	50
Sean T. Connaughton	55
Charles D. Nottingham	58
Robert L. Sumwalt III	59
Response to written questions submitted by Hon. John E. Sununu to:	
Admiral Jay M. Cohen	51
Nathaniel F. Wienecke	55

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THURSDAY, JULY 27, 2006

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 11 a.m. in room SR-253, Russell Senate Office Building, Hon. Ted Stevens, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. TED STEVENS,
U.S. SENATOR FROM ALASKA**

The CHAIRMAN. We're waiting for the Senators who will make some introductions, but before they arrive, I want to say that this morning we're going to hear from five of the President's nominees. Our Committee welcomes each of you and thanks you for your willingness to serve.

Nathaniel Wienecke has been nominated to be Assistant Secretary for Legislative and Intergovernmental Affairs at the Department of Commerce. He has been very helpful to this committee in his current capacity and continues to provide valuable assistance with respect to a bill that I am very interested in, the Magnuson-Stevens Act and other matters.

Admiral Jay Cohen is the nominee to be Under Secretary for Science and Technology for the Department of Homeland Security. If confirmed, he will oversee the research and development of the next generation of technology used to secure our country. The Committee recently reported a bill to foster American innovation and competitiveness, and we look forward to learning about Admiral Cohen's vision today.

Sean Connaughton has been nominated to be Administrator of the Maritime Administration. MARAD seeks to protect the U.S. Merchant Marine shipbuilding ports and reserve shipping. Our committee approved a Maritime reauthorization bill last week, and we look forward to hearing from this nominee about what more should be done to enable MARAD to fulfill its mission.

Charles Nottingham has been nominated to be a Member of the Surface Transportation Board, which monitors railways and serv-

ices, as well as trucking, ocean shipping and moving van rate issues. As the demand on our railroads and transportation grows, the STB will play a heightened role in our Nation's economy.

Robert Sumwalt has been nominated to become a Member of the National Transportation Safety Board. As many of you know, NTSB is vital to my home state given that a large percentage of Alaska can be reached only by plane. We have worked closely with the NTSB to reduce the number of pilot deaths and air crashes and we look forward to hearing from Mr. Sumwalt.

Senators Domenici and Reed will be here to introduce Jay Cohen. Senators Allen and Warner and Congressman Davis are here to introduce Sean Connaughton and Charles Nottingham. And Senator DeMint to support Robert Sumwalt.

Congressman Wolf has submitted a statement supporting Sean Connaughton.

I have been notified that many nominees have their family and friends here today, and I hope the nominees will take the time to introduce them. We might do that now if they are willing to do that while we wait for the Senators.

Mr. Wienecke, do you have family here today?

Mr. WIENECKE. I do, Mr. Chairman. My wife, Chantal and daughter, Kendell, and my parents, Paul and Jean Wienecke.

The CHAIRMAN. Thank you very much for coming. We appreciate your presence.

And Admiral Cohen, do you have family here? The Admiral is not here yet.

Sean Connaughton, are you here?

Mr. CONNAUGHTON. Yes, sir.

The CHAIRMAN. Do you have family with you?

Mr. CONNAUGHTON. My wife, Teresa, my daughter, Courtney, and unfortunately, my son had to travel back for a soccer game. He is on his way to North Carolina right now.

The CHAIRMAN. Thank you. And Mr. Nottingham, are you here?

Mr. NOTTINGHAM. Yes, sir.

The CHAIRMAN. Do you have members of your family here?

Mr. NOTTINGHAM. Yes, my wife, Catherine, my sons, Charles and Garner.

The CHAIRMAN. Thank you very much.

And Mr. Sumwalt, are you here?

Mr. SUMWALT. Yes, Mr. Chairman. My wife, Anne and my daughter, Mackenzie.

The CHAIRMAN. Well, we welcome all of you here. Senator Warner, there is a place right there by your name.

Senator WARNER. Well, it has gotten fancy in this room and I'm not sure how you activate this.

When I was on this committee we used to use a natural voice, but now we have all kinds of things.

The CHAIRMAN. Well, there is a microphone for you right there John, if you would like to sit there.

Senator WARNER. I like this one.

The CHAIRMAN. Senator Dorgan, do you want to make a comment?

**STATEMENT OF HON. BYRON L. DORGAN,
U.S. SENATOR FROM NORTH DAKOTA**

Senator DORGAN. Mr. Chairman, I just want to make a comment for a brief moment to welcome Senator Warner of course, all of the colleagues who will come. I intend to support all of these nominees and thank them to be willing to serve their country. I did not want to miss the moment, however, for the nominee to be Chairman of the Surface Transportation Board. We have as you know, Mr. Chairman, we have for a long, long while have been suffering through these issues of rail rates in this country. We desperately need an aggressive Surface Transportation Board that will stand up for shippers and do the right thing. I am going to support Mr. Nottingham. I hope that he and I will engage often and see if we can get the Surface Transportation Board stand up for the consumers and the rail shippers of this country.

But again, I will support all of these nominees, and I think the Administration has given us some good folks to consider for these important decisions.

The CHAIRMAN. Senator DeMint, Senator Warner is here first. I know you are to support a nominee, but we will proceed with him if that is all right with you?

Senator DEMINT. Yes.

The CHAIRMAN. Senator Warner, we are pleased to have your comments.

**STATEMENT OF HON. JOHN WARNER,
U.S. SENATOR FROM VIRGINIA**

Senator WARNER. Thank you Mr. Chairman and Senator Inouye and colleagues. I am currently chairing the Armed Services Committee, and we have a hearing with General Conway before us to be the next Commandant of the Marine Corps. However, I am pleased to speak on behalf of Sean Connaughton whom I have known. He has had a very distinguished career. I worked with him extensively when he was Chairman of the Board of Supervisors. I think one of the fastest growing counties in America, not just the United States, but America.

And to Chip Nottingham, I wish him well. I have worked with him through the years, and he will do an excellent job as a public servant, both of these men.

So with that, Mr. Chairman, and I ask indulgence to my good friends who I've come to speak for, actually it is better that I say less, and you say more.

Thank you very much.

The CHAIRMAN. Mr. Chairman, we welcome you, and we thank you very much for your statement.

Senator WARNER. I thank the presiding officer.

The CHAIRMAN. Senator DeMint, do you have a person to introduce?

**STATEMENT OF HON. JIM DEMINT,
U.S. SENATOR FROM SOUTH CAROLINA**

Senator DEMINT. I thank you Mr. Chairman, and Co-Chairman Inouye. I would like to commend all of the nominees today. We're proud to be here to make your case. I am especially pleased to in-

introduce to the Committee, Mr. Robert Sumwalt of Columbia, South Carolina, as a nominee to serve on the National Transportation Safety Board.

I also, I think Mr. Chairman, you have already recognized Robert's wife, Anne, his daughter, Mackenzie, who are here to support his nomination today.

When you meet Robert the first thing that comes through is his passion for transportation safety. His resumé is evidence of this.

Mr. Sumwalt has built a distinguished career in both aviation operations and safety program development. For 24 years, he served as a pilot for major U.S. international carrier where he logged 14,000 flight hours and type rating in five aircraft. In addition, he has extensive experience as an airline captain, an airline check airman, an instructor pilot, and an air safety representative.

Mr. Sumwalt's contributions to aviation safety through academic instruction and safety program development are too numerous to be named at this time, so I encourage each of you to take a thorough look at his list of accomplishments. However, I would like to point out that two of Mr. Sumwalt's aviation safety improvements have been recognized by prestigious industry awards: the Flight Safety Foundation Laura Taber Barbour Air Safety Award in 2003, and the Air Line Pilots Association Air Safety Award in 2004.

In addition, Mr. Sumwalt has co-authored a book profiling recent aircraft accidents, and this is a rather large book that I have to confess that I haven't read all the way through myself, but clearly this gentleman has spent a lot of time studying how we can improve safety in airlines.

Currently, Mr. Sumwalt serves as Manager of Aviation for SCANA Corporation, a Fortune 500 energy-based company. He oversees operations, maintenance and safety of company aircraft, the department's personnel, and management of the department's fiscal matters.

The Safety Board's responsibility for accident investigations and safety recommendations is crucial to the safety and advancement of our Nation's transportation systems. It is extremely important that each Board Member have real-world knowledge of transportation safety. Mr. Sumwalt not only has the required expertise, he also has an uncommon commitment to public safety. I am confident, that if confirmed, Mr. Sumwalt would be a valuable addition to the Board.

I urge this committee to carefully consider Mr. Sumwalt's background and favorably report his nomination.

I thank you for allowing me the opportunity to introduce this talented and distinguished nominee.

Mr. Chairman, I yield back.

[The prepared statement of Senator DeMint follows:]

PREPARED STATEMENT OF HON. JIM DEMINT, U.S. SENATOR FROM SOUTH CAROLINA

Thank you Chairman Stevens, Co-Chairman Inouye, I would like to commend all of the nominees here today on their nominations. But I am especially pleased to introduce to the Committee Mr. Robert Sumwalt of Columbia, South Carolina, as a nominee to serve on the National Transportation Safety Board (NTSB).

I would also like to recognize Robert's wife, Anne, and his daughter, Mackenzie, who are here to support his nomination today.

When you meet Robert, the first thing that comes through is his passion for transportation safety. His resumé is evidence of this.

Mr. Sumwalt has built a distinguished career in both aviation operations and safety program developments. For 24 years, he served as a pilot for a major U.S.-based international carrier where he logged 14,000 flight hours and type rating in five aircraft. In addition, he has extensive experience as an airline captain, an airline check airman, an instructor pilot, and an air safety representative.

Mr. Sumwalt's contributions to aviation safety through academic instruction and safety program development are too numerous to be named at this time, so I encourage each of you to take a thorough look at his list of accomplishments. However, I would like to point out that two of Mr. Sumwalt's aviation safety improvements have been recognized by prestigious industry awards: the Flight Safety Foundation Laura Taber Barbour Air Safety Award in 2003, and the Air Line Pilots Association Air Safety Award in 2004.

In addition, Mr. Sumwalt has co-authored a book profiling recent aircraft accidents entitled, *Aircraft Accident Analysis: Final Reports* and has authored the aircraft accident and incident investigation section in *The Standard Handbook for Aeronautical and Astronautical Engineers*.

Currently, Mr. Sumwalt serves as Manager of Aviation for SCANA Corporation, a Fortune 500 energy-based company. He oversees operations, maintenance and safety of company aircraft, the department's personnel, and management of the department's fiscal matters.

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I urge this committee to carefully consider Mr. Sumwalt's background and favorably report his nomination.

Thank you for allowing me the opportunity to introduce this talented and distinguished nominee.

The CHAIRMAN. Thank you, Senator.

Senator Domenici, do you have a statement to make for one of the nominees?

**STATEMENT OF HON. PETE V. DOMENICI,
U.S. SENATOR FROM NEW MEXICO**

Senator DOMENICI. I will be brief, but thank you for giving me a couple of moments. I am here to speak on behalf of and introduce Admiral Jay Cohen, the President's nominee to be Under Secretary of Homeland Security for Science and Technology.

Admiral Cohen graduated from the Naval Academy and received a Master's degree from Massachusetts Institute of Technology.

He is a 35-year veteran of the Navy, most recently serving as the Chief of Naval Research. In that role, he has championed many significant programs for the Marines and the Navy, including some that I have been personally involved in and watched him professionally undertake.

I got to know the Admiral through two important projects that we have worked on together over the years. One is called the Magdalena Ridge Observatory, kind of a "break the mold" observatory approach on the top of a mountain with a different structure for observatories. This project will send huge new photographs to the world of what is going on in space.

And the second was an Expeditionary Unit Water Purification. The Expeditionary Unit Water Purification Program has had much success in the past few years.

Mr. Chairman, you have heard of the work the units performed last summer, providing 450,000 gallons of fresh water for the Coast Guard Loran Station at Port Clarence, Alaska.

Additionally, last September two of the units, basically research units, which are moving ahead dramatically with desalination, were deployed to Mississippi to provide drinking water for the victims of Hurricane Katrina.

Clearly, to this Senator, the Expeditionary Unit Water Purification Program is meeting some great goals, much of that due to the leadership qualities of this nominee. He is truly capable of accomplishing what is required in this new job, as he has spearheaded projects as the Chief of Naval Research. He will do the same in this new capacity.

So I believe he will bring this innovative, forward-thinking approach to Homeland Security which you are here to fill a vacancy at the most expeditious time. I hope that will occur, and the man will be this gentleman, and I thank you for giving me time to introduce him, Mr. Chairman and fellow Senators.

The CHAIRMAN. Thank you very much Senator.

Senator Reed, you have a comment about Mr. Cohen also?

Senator REED. I do.

**STATEMENT OF HON. JACK REED,
U.S. SENATOR FROM RHODE ISLAND**

Senator REED. Mr. Chairman and members of the Committee, I am pleased to join Senator Domenici in introducing Admiral Jay Cohen. He has an extraordinarily distinguished career in the United States Navy, and let me emphasize as Senator Domenici did, his service of 5½ years as the Chief of Naval Research. There he was responsible and effective in managing complicated technology projects, delivering new technology and new innovation to the fleet and with those skills, he will be superbly prepared to assume his new responsibilities in the Department of Homeland Security.

He also understands very well the need to develop and maintain an industrial base that will support the technology efforts of the Department, and that industrial base is not just the facilities, but also the designers and the engineers that are so critical to maintaining our progress and continuing our leadership in so many different roles. As Senator Domenici pointed out, Admiral Cohen is a graduate of the Naval Academy, and I was reluctant to come here today until he informed me that the Navy football team lost all 4 years while he was at Navy. This too, endears me to Admiral Cohen, but I recommend his nomination wholeheartedly.

The CHAIRMAN. Thank you very much Senator.

Congressman Tom Davis of Virginia, you have a comment to make about one of our nominees.

**STATEMENT OF HON. TOM DAVIS,
U.S. REPRESENTATIVE FROM VIRGINIA**

Representative DAVIS. Senator, two nominees with whom I have had a long relationship, Sean Connaughton and Chip Nottingham. I have known Mr. Connaughton and Mr. Nottingham for many years. I have had a long relationship with them. I remember Sean

Connaughton who was nominated to serve as the Administrator of the Maritime Administration. He is a graduate of Kings Point, the Merchant Marine Academy and is a Maritime attorney by trade, but is well aware of the central role that Maritime plays in the global economy. It is also integral to our national security, so I think this is a man of very high caliber. I worked with Sean. He has been Chairman of the Board of Supervisors in Prince William County which is in my district. Since 1999, this is one of the fastest growing counties in the country. Such growth could easily overwhelm many local governments, but under Sean, the county has earned a reputation of being a great place to do business and to live. They are known for their sound financial management.

Just a couple specifics, Prince William County enjoys a AAA bond rating with a handful of jurisdictions around the country that does that. They got that under his leadership. They've actually enjoyed two ratings upgrades since he assumed the office. They've also dramatically increased their fund balance, their "rainy day" account, and they have consistently run budget-year surpluses.

Finally, under Sean, Prince William has been a leader in using information technology and other process improvements to make government efficient and user-friendly. Like Sean, I was Chairman of the neighboring county in Fairfax before I came to Congress, but I just think he is an excellent nominee, and I would urge his support.

I also turn to Chip Nottingham, who is a graduate of Wesley University in Connecticut, but I have worked continuously with Chip since 1994 when I was first selected to Congress. He was my first Counsel when I came to Congress in 1995, and he rose up the ranks to serve as my Chief of Staff and was also Chief of Staff to Congressman Bob Goodlat. He has worked with me as Counsel on the Government Reform Committee as well, which I now Chair.

As a senior staffer, no job is too big or too small for Chip to handle with care and to bring successful closure. He is a problem solver. He has extraordinary interpersonal and communication skills. This Committee is likely well aware of his transportation expertise—more than 8 years of working at the highest levels of transportation policy and management at the State and Federal levels.

But I would like to emphasize Chip's passion and experience in delivering effective government management strategies, safeguarding taxpayer dollars and bringing positive reforms to complex government organizations. As Chairman of the House Government Reform Committee, I am especially pleased to report that Chip is a strong and effective manager and a careful steward of taxpayer dollars. Whether it was earning the trust of Federal employees and Federal retirees while handling civil service issues for me; helping us to reform the District of Columbia and as you know, write the Control Board Legislation, or more recently when he was CEO of the Virginia Department of Transportation and initiated more than 100 management reforms including creating an Inspector General Office and Chief Environmental and Regulatory Affairs officer, Chip has always had a passion for making government work better in a more transparent responsive manner.

If Chip is confirmed as Chairman of the STB, he will become the Chief Executive Officer of an agency that faces a number of chal-

lenges. Approximately 60 percent of the STB's 140-person workforce is retirement-eligible, and the agency has not been reauthorized in many years due to competing interest among STB's stakeholders. The STB is in need of a strong, proven leader with a record of problem solving and public service, and I think Chip Nottingham is the right person for the job. And I appreciate the opportunity to be here and share these thoughts with you today.

[The prepared statement of Representative Davis follows:]

PREPARED STATEMENT OF HON. TOM DAVIS, U.S. REPRESENTATIVE FROM VIRGINIA

Chairman Stevens, Co-Chairman Inouye, members of the Committee, today I have the distinct pleasure of introducing two individuals here today: Sean Connaughton and Chip Nottingham. I have known both Mr. Connaughton and Mr. Nottingham for many years, and am pleased President Bush has nominated them for their respective positions in his Administration. I recommend this committee's and the Senate's speedy confirmation of these outstanding public servants.

I will begin my remarks with Sean Connaughton, nominated to serve as the Administrator of the Maritime Administration.

The Members of this committee are well aware of the central role maritime trade plays in our Nation's—and the global—economy. It is also integral to our national security. Thus, it is of the utmost importance that the Maritime Administrator be of the highest caliber. President Bush has done well to nominate Sean to fill this important role.

I have worked with Sean on numerous occasions in recent years. The 11th Congressional District of Virginia, which I am honored to represent, is comprised of large portions of Fairfax County and Prince William County, Virginia. As you know, Mr. Connaughton has served as Chairman of the Prince William County Board of Supervisors since 1999.

Prince William County is experiencing the same explosive population growth felt throughout all of Northern Virginia. Such growth could easily overwhelm many local governments; however, under Sean, the county has earned the reputation of being a great place to both do business and reside.

Prince William County is also known for its sound financial management, due in large part to the abilities of Chairman Connaughton. A few specifics: Prince William County enjoys a AAA bond rating, having enjoyed two ratings upgrades since Sean assumed office. Prince William has also dramatically increased its fund balance, or "rainy day" account and has consistently run year-end budget surpluses. Finally, under Sean, Prince William has been a leader in using information technology and other process improvements to make government more efficient and user-friendly.

Like Sean, I have served as the Chairman of a County Board before coming to Congress. I know the myriad challenges inherent in this position, and am impressed with the job Sean has done. Sean's impressive record as an executive, coupled with his extensive experience in and knowledge of maritime matters, give me every confidence that he will bring the same level of accomplishment to the Maritime Administration as he has to Prince William County. I urge your support of his confirmation.

I turn now to Chip Nottingham, with whom I have worked continuously since 1994. He served as my first Counsel when I came to Congress in 1995 and rose up the ranks to serve as my Chief of Staff. He has also worked for me as Counsel on the Government Reform Committee.

As a senior staffer, no job was too big or too small for Chip to handle with care and bring to successful closure. He is a problem-solver and has extraordinary interpersonal and communications skills. This committee is likely well aware of his transportation expertise—more than 8 years working at the highest levels of transportation policy and management at the state and Federal levels. What I'd like to emphasize today is Chip's passion and experience in delivering effective government management strategies, safeguarding taxpayer dollars, and bringing positive reform to complex government organizations.

As Chairman of the House Government Reform Committee, I am especially pleased to report that Chip is a strong and effective manager and careful steward of taxpayer dollars. Whether it was earning the trust of Federal employees and Federal retirees while handling civil service issues for me; helping me to reform the government of the District of Columbia when we created the Financial Control Board and the Chief Financial Officer of DC; or more recently when he was CEO of VDOT and initiated more than 100 management reforms, including creating an

Inspector General Office and a Chief Environmental and Regulatory Affairs Officer, Chip has always had a passion for making government work better and in a more transparent and responsive manner.

If Chip is confirmed as Chair of the STB, he will become the Chief Executive Officer of an agency that faces a number of challenges. Approximately 60 percent of the STB's 140-person workforce is retirement eligible, and the agency has not been re-authorized in many years due to competing interests among the STB's stakeholders. The STB is in need of a strong, proven leader with a record of problem solving and public service. Fortunately, in Chip Nottingham, we have the right person for the job.

Thank you for the opportunity to appear here today. Again, I urge your support for these two fine individuals.

The CHAIRMAN. Mr. Chairman, we are delighted that you would take the time to support these two nominees and we appreciate any questions for the Congressman. Thank you, Mr. Chairman. I appreciate you being here.

Senator Allen, do you have an introduction?

**STATEMENT OF HON. GEORGE ALLEN,
U.S. SENATOR FROM VIRGINIA**

Senator ALLEN. Yes, I do Mr. Chairman. Congressman Davis has worked at the local government level and has worked with both of these gentlemen. Particularly, understanding Sean Connaughton's work, and I thank Congressman Davis for coming over here for them.

Let me just say a few things about two of the nominees. The third one by the way, Robert Sumwalt, I've actually had the pleasure of meeting him with Senator DeMint, and I'm sure he'll extol his virtues, but I endorse his nomination as well.

As far as Sean Connaughton to be Administrator of the MARAD and Chip Nottingham to be a Member of the Surface Transportation Board, both of these are long time Virginians with an exceptional records of service to the people of the Commonwealth.

Sean Connaughton has done an absolutely superb job as Chairman of the Prince William County Board of Supervisors. He has brought in new, good-paying jobs. He has balanced the needs that the fighting and disputes that the country has over growth and where the growth should be. He has done an outstanding job. It is a very diverse and growing county. They are getting new jobs, new investment. It is a really great place to live. I was there about a month ago dedicating a 9/11 memorial for those who perished on 9/11 from Prince William County, and what Sean has really shown is he is a man sticking to principles, well-grounded, but also working with all parties to achieve positive goals for the people of a very diverse, large and growing county. He is particularly well-qualified for this position.

In addition to that, being a graduate of not just of George Mason's law school, but a graduate of the U.S. Naval War College. He's served in the Navy Reserve and has been until this year since 1986. He was a Merchant Marine. He served our country in the Coast Guard. He's results-oriented and that is what we need with Maritime. He's results-oriented, can-do, get things done, and Sean Connaughton, I have no question in my mind would be exceptional in this position.

On Chip Nottingham, Chip served in Virginia, the Commonwealth Transportation Board, Commissioner of the Virginia De-

partment of Transportation, a tough, but a very important job. He has been a champion of increased investment. He is also one who looks for innovative, creative ways of expanding the transportation pie. One of the key Administration successes I had when I was Governor was what is called a Private Transportation Act, and Chip Nottingham tested and expanded and utilized the approach, and I think that's the sort of creative leadership we need at the national level, and Chip Nottingham is a person again with a proven record of performance, a person who has the right principles. He is hands-on. He solves problems and that's the sort of person we need on the Surface Transportation Board, and I recommend both of these gentlemen with all my highest recommendations and look forward to their confirmation.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Inouye, do you have any comments?

**STATEMENT OF HON. DANIEL K. INOUE,
U.S. SENATOR FROM HAWAII**

Senator INOUE. I'd just like to say I am pleased that the adopted son of Hawaii, Admiral Cohen, is one of the nominees, and I am certain that he will continue service to our Nation with great distinction.

Thank you.

The CHAIRMAN. Thank you, Senator.

Now if the nominees would please take their places at the table. Admiral Cohen, we did not have a chance to see whether you had family members here? Do you have any family members here today, sir?

Admiral COHEN. I do, Chairman Stevens, and I am so pleased to introduce my wife Nancy, her mother, Lee Noll, a World War II Navy Nurse; and Eleanor Rickover who we consider part of our family. She is Admiral Rickover's widow, a career Navy Nurse, also Admiral Rickover who both of you, and many on the Committee knew so well, taught us all to change the world and taught us the value of standards. My brother-in-law and sister-in-law, Sarah and Don Clements, and the future generation Hailey Clements and if we can get her to Hawaii, I think Senator she will compete very well for Miss Hawaii.

The CHAIRMAN. Well thank you very much for bringing these guests here. It certainly brings back memories for Senator Inouye and I and we're particularly pleased to see you here ladies, thank you for joining us.

Let us proceed through the list. Since you have just spoken, Admiral, why don't we take you first? We would be pleased to have any statement you wish to make.

**STATEMENT OF ADMIRAL JAY M. COHEN, NOMINEE TO BE
UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY,
DEPARTMENT OF HOMELAND SECURITY**

Admiral COHEN. Chairman Stevens, Senator Inouye, Members of the Committee, I am greatly pleased to appear before the Committee as you consider the President's nomination of myself to be

the next Under Secretary for Science and Technology of the Department of Homeland Security.

I am deeply honored and humbled that President Bush has nominated me to serve this great country and its people. If confirmed, I look forward to the opportunity and privilege to serve with the dedicated men and women, scientists, engineers and professionals who are working to secure our homeland and defend our freedoms.

Because of the number of people that you are considering today, Mr. Chairman, I will ask that my written statement be made part of the record and I will just say at the end that if confirmed, I commit to working with you and your staff and Chairman Stevens and Senator Inouye, I want to commend both staffs who are extremely professional, and I appreciate their vetting me and also their good advice. And if confirmed, I will work very closely with them. I think they help significantly in establishing the Department of Homeland Security, a very complex Department which is still maturing.

I look forward to working with government departments and all agencies, business both large and small, academia, laboratories, international partners, and innovators to discover and develop the best technologies and capabilities to those who are charged with protecting America, our homeland, today and tomorrow.

Now with that, and a time you deem appropriate, I am pleased to answer the Committee's questions.

[The prepared statement and biographical information of Admiral Cohen follow:]

PREPARED STATEMENT OF ADMIRAL JAY M. COHEN, NOMINEE TO BE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY, DEPARTMENT OF HOMELAND SECURITY

Chairman Stevens and Senator Inouye, members of the Committee, I am pleased to appear before this committee as you consider the President's nomination of myself to be the next Under Secretary for Science and Technology at the Department of Homeland Security.

I am deeply honored and humbled that President Bush has nominated me to serve this great country and its people. If confirmed, I look forward to the opportunity and privilege to serve with the dedicated men and women, scientists, engineers and professionals who are working to secure our homeland and defend our freedoms.

I am joined today by family and friends. I would like to recognize my wife Nancy and her Mom, Lee Noll, a World War II Navy Nurse and widow of Lt. Col. Don Noll, a career Marine, both members of the "greatest generation." My parents, Sol and Sally Cohen, who are no longer with us, were children of immigrants whose first view of America and its promise of freedom was the Statue of Liberty in New York harbor. They instilled in me a love of country and an ethos of service which has guided me throughout my naval career.

Since my nomination I have been asked, why after a full Navy career and nearly 6 years as the Department of the Navy Chief of Naval Research, I would volunteer to continue my public service. The answer is straight forward—the United States and the world's democracies are in a life and death conflict with terrorists who want to destroy the freedoms which we hold so dear. Our homeland has been attacked and remains at risk. During my tenure at the Office of Naval Research (ONR), especially after 9/11, I learned firsthand the incredible value that a sustained, customer focused basic and applied research program adds to America's ability to bring advanced technology to our (and our allies) asymmetric advantage against the enemies of freedom. It can mean the difference between life and death, victory or defeat.

The incredible economic engine which powers our economy and security is based on the innovation of citizens, research organizations and industry in a free society. The vision, guidance and accountable investment which only our Federal Government is capable of making in science and technology year in and year out has been crucial to the technological and economic strength of the United States. If the Ad-

ministration and you consider that my experience leading a world-class technology organization like ONR will benefit the maturing value of Science and Technology to further enhance the Department of Homeland Security mission to protect and defend the United States, I would be honored to serve and contribute to America's defense and continued technological advancement.

If confirmed, I commit to working with you and your staff, government departments and agencies, business (large and small), academia, laboratories, international partners, and innovators to discover, develop and deliver the best technologies and capabilities to those charged with protecting our homeland, today and tomorrow.

I am pleased to answer the Committee's questions.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Jay Martin Cohen.
2. Position to which nominated: Under Secretary for Science and Technology at the Department of Homeland Security.
3. Date of Nomination: June 28, 2006.
4. Address (List current place of residence and office addresses):
 Residence: information not released to the public.
 Office: None.
5. Date and Place of Birth: Dec. 12, 1946; New York, NY.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage): My spouse, Nancy Lee Cohen is not employed and we have no children.
7. List all college and graduate degrees. Provide year and school attended.
 1964–1968, United States Naval Academy, Annapolis, MD, B.S.
 1970–1972, Joint Program, Massachusetts Institute of Technology, Cambridge, MA and Woods Hole Oceanographic Institution, Woods Hole, MA—two degrees—Joint MIT/WHOI Ocean Engineering Degree and MIT Masters Degree in Naval Architecture and Marine Engineering.
8. List all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.
 1985–1988, Commanding Officer, USS HYMAN G. RICKOVER (SSN 709).
 1988–1989, Senior Member, Atlantic Fleet Nuclear Propulsion Examining Board.
 1989–1991, Director, Operational Support, Office of Naval Intelligence.
 1991–1993, Commanding Officer, USS L Y SPEAR (AS 36).
 1993–1997, Deputy Chief of Navy Legislative Affairs, Dept. of the Navy.
 1997–1999 Director, Navy Y2K Office.
 1999–2000, Deputy Director for Operations (Joint Staff J–3).
 2000–2006, Chief of Naval Research, Dept. of the Navy.
9. List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.
 United States Naval Post Graduate School Board of Advisors Member (Monterey, CA) in Chief of Naval Research Chair.
10. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational or other institution within the last 5 years: None.
11. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age or handicap.
 Memberships for entire past 10 years:
 Society of Naval Architects and Marine Engineers
 Sigma Xi

United States Naval Academy Alumni Association
 United States Naval Institute
 Army Navy Country Club (Arlington, VA)
 Army Navy Club (Washington, DC)
 Naval Submarine League
 Porsche Club of America
 Mercedes Benz Club of America
 Toy Train Collectors Association
 Lionel Railroader Club

Membership since 2000:

American Society of Naval Engineers
 Business and Higher Education Forum (as Chief of Naval Research)

Membership since 2006:

Disabled American Veterans

To my knowledge none of the above restrict membership.

12. Have you ever been a candidate for public office? No.

13. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years: None.

14. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognition for outstanding service or achievements.

1967 USNA Trident (honors) Scholar
 1970 MIT/WHOI U.S. Navy Burke Scholar

Military Medals:

Distinguished Service Medal
 Defense Superior Service Medal (2)
 Legion of Merit (6)
 Meritorious Service Medal (3)
 Navy Commendation Medal (2)
 Navy Achievement Medal

15. Please list each book, article, column, or publication you have authored, individually or with others, and any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

I authored three articles;

"The Deep Questions," Naval Institute Proceedings, Jan. 1969 (a discussion of deep diving research submarines).

Two articles in the *American Society of Naval Engineers Journal*, one in the 1970s and one in the 1980s. These articles were the publication of my technical research theses at the U.S. Naval Academy and MIT dealing with research submarine design and motion response of a catamaran surface ship in a seaway respectively.

As Chief of Naval Research from June 2000 until January 2006, I gave scores of technical "speeches" at professional conferences. Additionally, I conducted several interviews with technical and professional publications, (*i.e.*, *Defense News*, *Under Sea Technology*, *SeaPower*, *etc.*) and my comments at symposia and other technical meetings were referred to on numerous occasions in defense and scientific media. All of these were in support of Department of Defense and Navy goals/initiatives.

16. Please identify each instance in which you have testified orally or in writing before Congress in a non-governmental capacity and specify the subject matter of each testimony.

I never testified (orally or in writing) before Congress in a non-government capacity.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers: None.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation or practice with any business, association or other organization during your appointment? No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: None.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 5 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated: None.

5. Describe any activity during the past 5 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

Annual testimony as Chief of Naval Research before the House and Senate in support of the President's Department of the Navy Science and Technology Budget request.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

I will either divest my holdings or recuse myself as recommended/required by the Government Ethics' Office.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

Yes—In Jan. 1993, when my Father and Stepmother were killed in a traffic accident, my Stepsister subsequently protested my Father's will in the 17th Judicial Circuit Court, Broward County, FL. The estate was closed/settled out of court in Dec. 1994.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination.

I have served honorably throughout nearly 42 years on active duty in the United States Navy, representing our country around the world, with governments, military, industry, academia, professional groups and the Executive Branch and Halls of Congress. For the past 13 years, I have been assigned duties continuously in Washington, D.C., at the highest levels of the Department of the Navy and Joint Staff/Department of Defense leading men and women in all the services as well as hundreds of dedicated government service and contract support civilians. I have never shirked my responsibility for the care and development of the people assigned to my commands, while holding both military and civilian personnel accountable for their performance and behavior. I have always been guided by doing the right thing, not the expedient thing. I am excited about the opportunity (if confirmed by the Senate) to serve the United States, and the President at the Department of Homeland Security, by bringing my experience and talents to the fight against terrorism through the effective and rapid application of science and technology to our brave men and women who serve in the many DHS agencies to protect America.

6. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion or any other basis? If so, please explain.

Last year, in the Spring of 2005, while I was serving as the Chief of Naval Research (CNR), responsible for the Department of the Navy (DON), Office of Naval Research (ONR), I became aware of a situation with a senior (GS-15) ONR employee (Dr. Maribel Soto). Specifically, I received multiple informal allegations and a formal (written) complaint that Dr. Soto had created an emotionally abusive workplace at ONR, by abrasive verbal and written statements insulting and derogatory to both subordinate and supervisory personnel. When my verbal counseling of Dr. Soto was not effective in correcting the situation, in June 2005, I consulted personally with the DON General Counsel (Hon. Alberto Mora), the Deputy Assistant Sec-

retary of the Navy (DASN-Civilian Human Resources, Ms. Patricia Adams and her counsel/staff) and the DON Deputy Inspector General (Ms. Jill Loftus). They informed me that as a Commanding Officer, once such allegations of a hostile workplace environment were formally identified to me that I had to remove the offending individual from said workplace. To ensure there would be no question of the objectivity of actions I might have to take as CNR in this matter, I requested that the DASN-Civilian Human Resources (above me in the DON chain of command) have an independent ONR "Command Climate Survey" done by her counsel to determine the validity and extent of workplace problems associated with Dr. Soto's reported behavior. That initial survey was completed in July 2005 and the results substantiated the allegations involving Dr. Soto. As a result, on August 3, 2005, I formally (in writing) reassigned Dr. Soto from her supervisory position at ONR to a temporary research assignment at the Naval Research Laboratory (NRL) in Washington, D.C., until a more detailed/comprehensive investigation was completed. DASN-Civilian Human Resources then initiated a formal investigation into the extent of Dr. Soto's behavior and its impact on ONR command effectiveness and morale. When this investigation was completed and reviewed by CNR and the responsible DON leadership, appropriate action would be taken with Dr. Soto.

Dr. Soto denied any wrongdoing on her part and interpreted her temporary reassignment from ONR to NRL to be prejudicial and formally grieved my action to my superiors in the DON. Before I left the Office of Naval Research on January 20, 2006 (a normal relief after nearly 6 years as CNR) and retired from the Navy on February 1, 2006 (that date scheduled since May 2005), I was informed by the DON Office of the General Counsel and DASN-Civilian Human Resources that Dr. Soto's grievance of my actions had been investigated and was not substantiated. Her grievance against me was denied as was Dr. Soto's request that my reassignment of her be overturned. To my knowledge, Dr. Soto remains on temporary reassignment outside ONR as the formal investigation results undergo review and DON leadership decides what action is to be taken in this matter. The facts in this matter may be substantiated with DON Office of General Counsel, DASN-Civilian Human Resources and DON Inspector General.

Other than the above, in my 38 years of commissioned service as a U.S. Navy officer, I have no knowledge of any other accusation (formal or informal) involving sexual harassment or discrimination on the basis of sex, race, religion or any other basis involving me.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.
2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.
3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.
4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

The CHAIRMAN. Thank you very much. All of your statements will be printed in the record in full. You may summarize them, or read them, or whatever you wish to do. We thank you, Admiral.

The next person that I would call on would be Nathaniel Wienecke who is to be Assistant Secretary of Commerce.

STATEMENT OF NATHANIEL F. WIENECKE, NOMINEE TO BE ASSISTANT SECRETARY FOR LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS, DEPARTMENT OF COMMERCE

Mr. WIENECKE. Chairman Stevens, Co-Chairman Inouye, and members of the Committee, it is a privilege for me to appear before you today as the nominee to be Assistant Secretary for Legislative and Intergovernmental Affairs at the Department of Commerce. I do have a brief statement.

I would like to thank President Bush for nominating me, and I am also very grateful to Secretary Gutierrez for supporting my nomination. It is a tremendous honor to work under his leadership at the Department.

Thank you for allowing me to introduce my family. I am truly grateful for the love, support and great sacrifices of my wife and daughter. It is only because of them that I sit before you today. Also, throughout my life, my parents have made countless hard choices for my benefit and I thank them as well. Thank you all.

I would also like to thank the career sector of the Department of Commerce. They are dedicated public servants, particularly Karen Swanson-Woolf and Jim Schufrieder, Clark Reid and Jim Wasilewski. The American people are better for their service. Your staff and the Committee are wonderful to work with. They pay attention to the details and are very forceful advocates for your legislative priorities. Over the past 5 years I have had the opportunity to work with every Member of the Senate and the House. If confirmed, I pledge to work closely with all of our stakeholders in a fair and honest manner without regard to position or party. As a former Congressional aide, I understand that the livelihood, quality-of-life, and very often the bottom line of your constituents can be affected by the Department's responsiveness to your inquiries.

If I am fortunate enough to be approved by the Committee and confirmed by the Senate, I pledge to work with every Member of this committee, the Senate and the entire Congress to meet your needs.

Thank you very much and I'll take any questions.

[The prepared statement and biographical of Mr. Wienecke follow:]

PREPARED STATEMENT OF NATHANIEL F. WIENECKE, NOMINEE TO BE ASSISTANT SECRETARY FOR LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS, DEPARTMENT OF COMMERCE

Chairman Stevens, Co-Chairman Inouye, and distinguished members of the Committee, it is a privilege for me to appear before you today as the nominee to be Assistant Secretary for Legislative and Intergovernmental Affairs at the Department of Commerce. I deeply respect the great traditions of the Senate and am both humbled and honored to be considered for this position. I would like to thank President Bush for nominating me, and I am also very grateful to Secretary Gutierrez for supporting my nomination. It is a tremendous honor to work under his leadership at the Department of Commerce.

I would like to introduce my wife, Chantal, and my daughter, Kendall. It is only with their love, support and great sacrifice that I sit before you today, and I am truly grateful for their support. My parents, Paul and Jean Wienecke, are here today, and I would like to recognize them as well. The hard choices they have made for my benefit and that of my siblings are countless. Thank you, Chantal, Kendall, Mom and Dad for your unwavering support.

I would also like to commend the career staff of the Department of Commerce. They are dedicated, professional and always up to the task. The American people are better off for their service. Additionally, Chairman Stevens and Co-Chairman Inouye, I would like to commend the Commerce Committee staff—it is a pleasure to work with them. They focus on the details and are forceful advocates for your legislative priorities.

Mr. Chairman, I firmly believe that America's strength lies in the ingenuity and entrepreneurial spirit of its citizens. Serving at the Department of Commerce, where our mission every day is to "foster, promote, and develop the foreign and domestic commerce" of the United States is a distinct honor and privilege. If confirmed, I pledge to continue working in partnership with you and the Committee to address the concerns and needs of the American public. Over the past 5 years, I have served

in a variety of positions at the Department and have had the opportunity to work with our incredibly diverse portfolio, managed by 12 bureaus and under the oversight of 21 different Congressional committees.

During my tenure at the Commerce Department, I have had the opportunity to work with almost every Member of the Senate and House and most of our Nation's Governors. If confirmed, I pledge to work closely with our stakeholders to provide them timely and accurate information about the Department's programs and policies. I will do so fairly and without regard to position or party. As a former Congressional aide, I understand that the livelihood, quality-of-life or bottom line of your constituents can be affected by the Department's responsiveness to your inquiries on their behalf.

The issues faced by your constituents vary greatly across America. Whether the unique challenges faced by Alaskan Natives, the treasured ecosystem of Hawaii, or the reinvigoration of the Gulf Coast, each state and each region has its own unique needs. I am committed to helping you address them. Programs at the Department of Commerce affect people personally—whether it be promoting economic development in distressed communities, enforcing our trade laws, or helping small businesses protect their newest innovations, there are no small or unimportant issues.

If confirmed by the Senate, there are three priorities on which I will focus:

First, I will be a strong advocate for the Administration's legislative priorities that are before the Congress. Whether it the reauthorization of the Magnuson-Stevens Act, promoting the President's American Competitiveness Initiative, or advancing legislation to open markets around the world to U.S. goods and services, I will provide the Congress with the information it needs to craft legislation and oversee the Department's activities.

Second, I will ensure that the Department's legislative staff meets often with yours to ensure that we understand your priorities. There is no substitute for face-to-face interaction in the disposition of complex issues.

Third, I will work to implement three key information technology improvements to better our ability to communicate with Members' offices. Specifically, we must improve the means by which we notify Members' offices of grants and contracts that affect your respective states. We must also improve the methods we use to share the wealth of economic and statistical data that we produce. And finally, we need to continue to improve the means by which we ensure that inquiries from Members of Congress are responded to in a timely manner.

I look forward to assisting Secretary Gutierrez by serving as a conduit to share his views and objectives with the Congress and relay your concerns back to the Department. In addition, I am committed to keeping the lines of communication open with state and local governments on issues of importance to them.

If I am fortunate enough to be approved by this committee and confirmed by the Senate, I will ensure that the Department responds to your questions as quickly as possible with the best information that is available.

Thank you for the opportunity to appear before you today. I will be happy to answer any questions that you may have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Nathaniel Frederick Wienecke, Nickname: Nat.

2. Position to which nominated: Assistant Secretary of Commerce for Legislative and Intergovernmental Affairs.

3. Date of Nomination: June 29, 2006.

4. Address (List current place of residence and office addresses):

Residence: information not released to the public.

Office Address: Office of Legislative and Intergovernmental Affairs, Room 5421, U.S. Department of Commerce, 14th & Constitution Ave., NW, Washington, DC 20230.

5. Date and Place of Birth: January 10, 1972; Rockford, Illinois; Winnebago County.

6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Spouse: Chantal Suess Rainey, Homemaker and part-time Consultant for Hoosier PAC.

Child: Kendall Marie Wienecke, 4 years old.

7. List all college and graduate degrees. Provide year and school attended: Bachelor of Science in Business Economics, 1994, State University of New York at Oneonta.

8. List all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Acting Assistant Secretary for Legislative and Intergovernmental Affairs, U.S. Department of Commerce, Intermittently from June 2005–present.

Deputy Assistant Secretary for Legislative and Intergovernmental Affairs, U.S. Department of Commerce, March 2004–present.

Deputy Assistant Secretary for External Affairs and Communications, Economic Development Administration, U.S. Department of Commerce, November 2002–March 2005.

Director of Legislative Affairs, Communications, Economic Development Administration, U.S. Department of Commerce, August 2001–November 2002.

Professional Staff, Government Reform Committee, U.S. House of Representatives, August 1999–August 2001.

Legislative Assistant, Representative Dan Burton, U.S. House of Representatives, May 1995–August 1999.

Legislative Correspondent, Representative Michael P. Forbes, U.S. House of Representatives, February 1996–May 1997.

9. List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.

10. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational or other institution within the last 5 years: None.

11. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age or handicap.

I am or have been a member of the organizations listed below. None of these organizations restricts membership on the basis of sex, race, color, religion, national origin, age or handicap. The organizations include:

St. Josephs Parish, 12/95–present, no positions;

Capitol Hill Club 1998–1999, no positions; and

Ducks Unlimited 2001–present, no positions.

12. Have you ever been a candidate for public office? I have never been a candidate for public office.

13. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years: George W. Bush via Bush-Cheney 2004 (primary) Inc., 8/27/2004—\$2000.00.

14. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognition for outstanding service or achievements.

Soepp Roesse Scholarship for International Studies, 1994.

Scott Jenkins Scholarship for Study Abroad Programs, 1994.

15. Please list each book, article, column, or publication you have authored, individually or with others, and any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

I have collaborated on a great number of speeches and writings for Members of Congress and Secretary Gutierrez during my career working for Congress and in the Administration.

In the course of official events with the Department of Commerce and at the Economic Development Administration (EDA) at the Department of Commerce I participated in dozens of public events where I gave remarks to the public and interviews to the media. The events consisted of grant announcements with Members of Congress and speaking at EDA's national conferences. In all cases my remarks were

from prepared notes and not written speeches. I do not have a record of specific dates and locations.

I participated in the drafting of a Majority Staff Report for the Committee on Government Reform, U.S. House of Representatives, entitled *Conflicts of Interest in Vaccine Policy Making*, August 21, 2000.

As President of the Student Government at Oneonta State College I wrote an op-ed article in the *State Times* on the need for insurance for club sports.

16. Please identify each instance in which you have testified orally or in writing before Congress in a non-governmental capacity and specify the subject matter of each testimony.

I have never testified orally or in writing before Congress in a nongovernmental capacity.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers: None.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation or practice with any business, association or other organization during your appointment? No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: None.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 5 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated: None.

5. Describe any activity during the past 5 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

In my official capacity at the Commerce Department over the past 5 years I have promoted the Administrations Legislative agenda.

Over the last 5 years in my official capacity as Deputy Assistant Secretary for Legislative and intergovernmental Affairs at the Commerce Department and Deputy Assistant Secretary for External Affairs and Communications at the Economic Development Administration, I have taken an active role in promoting the Administration's priorities before Congress. The issue areas that I have been responsible for include all legislation concerning the Bureaus of the Department of Commerce, notably Magnuson-Steven's Reauthorization, Central American—Dominican Republic Free Trade Agreement and the Economic Development Administration Reauthorization Act of 2004.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

I will consult with ethics officials at the Department of Commerce and if appropriate divest myself of conflicting interests, recuse myself, or obtain a conflict of interest waiver under 18 U.S.C. Sec. 208(b).

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

6. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion or any other basis? No.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

The CHAIRMAN. Thank you, sir.

And now we turn to Sean Connaughton who is nominated to be the Administrator of Maritime.

**STATEMENT OF SEAN T. CONNAUGHTON, NOMINEE TO BE
ADMINISTRATOR OF THE U.S. MARITIME ADMINISTRATION**

Mr. CONNAUGHTON. Chairman Stevens, Co-Chairman Inouye, Members of the Committee, it is a privilege to appear before you today to be considered for the position of Administrator of the U.S. Maritime Administration of the Department of Transportation. I would like to specifically thank Senator Allen, Senator Warner, Congressman Davis, and also Congressman Wolf for their comments in support of my nomination, as well.

America is the world's largest maritime trading economy. The maritime industry in all its aspects on land and sea, the people and the hardware, the terminals and the land-side connectors, is squarely in the front-line of the advancement of the American economy and the defense of the United States. The efficiency, safety and security of our domestic and international maritime transportation system from origin to destination are a matter of paramount importance to the welfare of every citizen of this Nation.

If confirmed by the Senate, I will, of course, continue to implement MARAD's statutory mandates to ensure the availability of efficient water transportation service to American shippers and consumers; an adequate shipbuilding and repair base; efficient ports; effective and intermodal water and land transportation connections; and sufficient intermodal shipping capacity for use by the Department of Defense in times of national emergency. I will also strive to ensure that the industry and all the persons who serve in it directly or indirectly are recognized, honored and appreciated for all that they have done and all that they will continue to do every day to support our economy, to protect our waterways and to preserve the marine environment. I have worked in this industry as a mariner and as a legal advisor. I have served as an officer in our Coast Guard and in our Navy. These experiences will, I hope, help me merit your trust in fulfilling the duties of Maritime Administrator.

I recognize there are challenges and changes facing the transportation system, the U.S. maritime industry and the Federal Government. The Maritime Administration must focus its efforts on the strategic areas of commercial mobility and congestion relief, maritime and port development, national security and an environmental stewardship. The Maritime Administration must support the strategic objectives of the Department of Transportation. One of our greatest challenges is to increase our national transportation options in order to support our Nation's economic growth. Greater use of the maritime transportation system, through elements such as

short sea shipping and multi-modal port development, offer the potential to reduce congestion while increasing efficiency in our ports and waterways. We expect that the U.S. military will increase its reliance on commercial transportation systems. These challenges and changes are of such importance that we must plan wisely now to ensure a more effective marine transportation system that serves our national need for personal mobility and for the safe and efficient movement of domestic and international freight.

None of these objectives can be achieved without close cooperation and open communication with Congress, the national and international maritime industry, the shippers and receivers of the goods that move by water, and the skill and talents of the industry and MARAD's professional staff. I look forward to working with all of you.

Thank you for considering my nomination, and I would be pleased to answer any questions you may have.

[The prepared statement and biographical information of Mr. Connaughton follow:]

PREPARED STATEMENT OF SEAN T. CONNAUGHTON, NOMINEE TO BE ADMINISTRATOR
OF THE U.S. MARITIME ADMINISTRATION

Chairman Stevens, Co-Chairman Inouye, Members of the Committee, it is a privilege to appear before you today to be considered for the position of Administrator of the U.S. Maritime Administration of the Department of Transportation. I have with me today my family. I would like to introduce my wife Teresa, my daughter Courtney and my son, Sean Jr. I have been an elected official in local government for the past 7 years and during that time they have endured the schedule and demands that you and your families are very familiar with. I appreciate their past and continued support of my tenure in public service.

America is the world's largest maritime trading economy. The maritime industry in all its aspects on land and sea, the people and the hardware, the terminals and the land-side connectors, is squarely in the front-line of the advancement of the American economy and the defense of the United States. The efficiency, safety and security of our domestic and international marine transportation system from origin to destination is a matter of paramount importance to the welfare of every citizen of this Nation.

If confirmed by the Senate, I will, of course, continue to implement MARAD's statutory mandates to ensure the availability of efficient water transportation service to American shippers and consumers; an adequate shipbuilding and repair base; efficient ports; effective intermodal water and land transportation connections; and sufficient intermodal shipping capacity for use by the Department of Defense in times of national emergency. I will also strive to ensure that the industry and all the persons who serve it directly or indirectly are recognized, honored and appreciated for all that they have done and all that they will continue to do every day to support our economy, to protect our waterways and to preserve the marine environment. I have worked in this industry as a mariner and as a legal advisor. I have served as an officer in our Coast Guard and in our Navy. These experiences will, I hope, help me to merit your trust and the trust of the President in fulfilling the duties of Maritime Administrator.

I recognize there are challenges and changes facing our transportation system, the U.S. maritime industry and the Federal Government. The Maritime Administration must focus its efforts on the strategic areas of commercial mobility and congestion relief, maritime and port development, national security, and environmental stewardship. The Maritime Administration must support the strategic objectives of the Department of Transportation. One of our greatest challenges is to increase our national transportation options in order to support our Nation's economic growth. Greater use of the maritime transportation system, through elements such as short sea shipping and multi-modal port development, offer the potential to reduce congestion while increasing efficiency of our ports and waterways. We expect that the U.S. military will increase its reliance on commercial transportation systems. These challenges and changes are of such importance that we must plan wisely now to ensure a more effective marine transportation system that serves our national need for per-

sonal mobility and for the safe and efficient movement of domestic and international freight.

None of these important objectives can be achieved without close cooperation and open communication with the Congress, the national and international maritime industry, the shippers and receivers of goods that move by water, and the skill and talents of the industry and MARAD's professional staff. I look forward to working with all of you.

Thank you for considering my nomination. I would be pleased to answer any questions you may have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):
Sean Thomas Connaughton.
2. Position to which nominated: Administrator, U.S. Maritime Administration.
3. Date of Nomination: June 27, 2006.
4. Address (List current place of residence and office addresses): information not released to the public.
5. Date and Place of Birth: February 25, 1961; Brooklyn, New York.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).
Spouse: Teresa M. Connaughton, Registered Nurse, Inova Health Systems.
Children: Courtney M. Connaughton, age 14; Sean T. Connaughton Jr., age 12.
7. List all college and graduate degrees. Provide year and school attended.
U.S. Merchant Marine Academy, B.S., 1983.
Georgetown University, M.A., 1988.
George Mason University, J.D., 1992.
University of Virginia, Charlottesville, Fellow, Political Science, 1995.
Naval War College, Diploma, 1998.
8. List all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.
Commissioned officer, U.S. Coast Guard, Office of Marine Safety, Security and Environmental Protection (1983–86).
Assistant Branch Chief (Grade GM–13), U.S. Coast Guard, Office of Marine Safety, Security and Environmental Protection (1986–88).
Marine Transportation Associate, American Petroleum Institute, (1988–1992)
Attorney, Haight Gardner Poor and Havens (1992–1995); Eckert Seamans Cherin & Mellot (1995–2001); Troutman Sanders (2001–present).
Commander, U.S. Naval Reserve (1986–2006).
9. List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.
Board of County Supervisors, Prince William (2000–present).
Northern Virginia Transportation Authority, Commonwealth of Virginia (2000–present).
Potomac and Rappahannock Transportation Commission (2000–present).
Board of Directors, Washington Council of Governments (2004–present).
Metropolitan Washington Transportation Planning Board (2000–2005).
Advisory Board, United States Merchant Marine Academy (2006–present).
Towing Safety Advisory Committee, U.S. Coast Guard (2005–present).
Prince William Advisory Board of George Mason University (2004–present).
Committee for the Performing Arts Center at George Mason University (2004–present).
Northern Virginia Base Realignment and Closure Working Group (2005–2006).
Woodbridge Campus Advisory Board, Northern Virginia Community College (2006–present).

As outlined in the Acting General Counsels opinion letter, I will be resigning from all of these positions upon being sworn in as Administrator.

10. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational or other institution within the last 5 years.

Chairman, 9/11 Memorial Fund (2002–2006).

Chairman, Potomac Hospital Capital Campaign (2003–present).

Board of Directors, Homeland Protection Institute, Ltd. (2003–present).

Board of Directors, Northern Virginia Science Center at Belmont Bay (2003–present).

Board of Directors, Conservation Leaders Network (2005–present).

As outlined in the Acting General Counsel's opinion letter, I will be resigning from all of these positions upon being sworn in as Administrator.

11. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age or handicap.

Government Affairs Committee, U.S. Merchant Marine Academy Alumni Association (1997–present).

Mid-Atlantic Fundraising Chairman, U.S. Merchant Marine Academy Alumni Association (1997–1998).

Montclair Lions Club (1997–present).

Optimist Club of Manassas (2000–present).

Maritime Law Association (1992–present).

Kings Point Club of Washington (1983–present).

Naval Reserve Association (1987–present).

Reserve Officers Association (1986–present).

Prince William Committee of 100 (1999–present).

Ancient Order of the Hibernians, Dowd Division, Woodbridge (1999–present).

Knights of Columbus (2006–present).

St. Francis of Assisi Church, Triangle (1987–present).

National Conference of Republican County Officials (2001–present).

Prince William Republican Committee (1987–present).

American Legion, Post 28 (1992–present).

As outlined in the Acting General Counsel's opinion letter, I will be resigning from the Government Affairs Committee of the U.S. Merchant Marine Academy Alumni Association upon being sworn in as Administrator.

12. Have you ever been a candidate for public office? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

1999, 2003—Chairman, Prince William Board of County Supervisors—No debt.
2005—Lt. Governor, Commonwealth of Virginia—No debt.

13. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years.

Connaughton for Chairman, \$45,000, 1999.

George Allen for Senate, \$250, 2000.

Alexandria Republican City Committee, \$500, 2005.

Fairfax County Republican Committee, \$1,000, 2005.

Cheney for Congress, \$1,000, 2004.

Republican Party of Virginia, \$3,300, 2004/2005.

Va Conservative Action PAC, \$925, 2004.

10th District Republican Congressional, \$500, 2005.

Marty Nohe for Supervisors, \$1,500, 2003.

Corey Stewart for Supervisor, \$12,000, 2003.

Tom Davis for Congress, \$250, 1997.

14. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognition for outstanding service or achievements.

Distinguished Service Award for County Elected Officials, National Association of Counties (2004).

Meritorious Alumni Service Award, U.S. Merchant Marine Academy Alumni Association (1998).

Franklin D. Reinauer II Defense Economics Prize, U.S. Naval War College (1998).

Defense Meritorious Service Medal, Office of the Secretary of Defense (1997).
Fellow, Virginia Institute of Political Leadership (1995).

15. Please list each book, article, column, or publication you have authored, individually or with others, and any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Numerous Opinion-Editorial pieces on transportation and other issues impacting Northern Virginia localities, *The Washington Post*, *Potomac News*, *Prince William Times*, 2000 to present.

International Trade: Standardization and Harmonization vs. States' Rights, *The Metropolitan Corporate Counsel*, October 2000.

U.S. Legislative and Regulatory Developments, *Survey of Maritime Administrative Law*, August 1999.

Revolt of the Admirals: Part Deux, *U.S. Naval Institute Proceedings*, February 1999.

Protecting Your ISM Documents, *International Journal of Shipping Law*, December 1998.

Reinventing Sealift, *U.S. Naval Institute Proceedings*, December 1997.

OPA'90—The Debate Continues, *BIMCO Bulletin*, April 1997.

Seatrials Column, *Journal of Commerce*, (July, March, 1999; December, October, August, July, June, May, April, March, February, January 1998; November, October, September, August, July, June, May, April, February, January 1997).

Transportation Law, *Lloyd's List*, (December, September 1997).

Reflagging Moratorium? An Idea Whose Time Can Wait, *International Ship Registry Review*, August 1993.

Vessel Pollution Prevention and Response Considerations, *Oil Pollution Act of 1990*, December 1990.

Fatigue and Reduced Manning, *Proceedings of the Marine Safety Council*, August–September 1988.

Chemical Drug Testing, *Proceedings of the Marine Safety Council*, October–November 1987.

Coast Guard Merchant Vessel Manning, *Society of Naval Architects and Marine Engineers*, September 1987.

16. Please identify each instance in which you have testified orally or in writing before Congress in a non-governmental capacity and specify the subject matter of each testimony: None.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers.

401K Plan, Troutman Sanders LLP.

401K Plan, Prince William County.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation or practice with any business, association or other organization during your appointment? No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Please refer to the Acting General Counsel's opinion letter.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 5 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

As an attorney with Troutman Sanders LLP, I have provided legal services to the American Waterways Operators; the International Group of Protection and Indemnity Clubs, the International Association of Independent Tanker Owners, Nordisk, Cemex USA, and Chevron Shipping. None of the services provided involve or involved representation before the Maritime Administration. Pursuant to my Ethics Agreement, I have agreed to not have dealings with these entities for 1 year after my being sworn in as Administrator.

5. Describe any activity during the past 5 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

I am currently involved in the legal representation of the American Waterways Operators regarding the constitutionality of a Massachusetts law regulating shipping. As an elected official on behalf of Prince William County, I have lobbied the Virginia Congressional delegation for support for transportation, community development and related projects and programs.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

Please refer to the Acting General Counsel's opinion letter.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

6. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion or any other basis? No.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

The CHAIRMAN. Next is Charles Nottingham who is nominated to be Member of the Surface Transportation Board and upon confirmation you would become the Chairman, so we welcome your statement.

STATEMENT OF CHARLES D. NOTTINGHAM, NOMINEE TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD

Mr. NOTTINGHAM. Thank you Chairman Stevens and Co-Chairman Inouye. I am pleased to appear before this committee today as President Bush's nominee to the Surface Transportation Board.

I would like to thank Senators Warner and Allen and Congressman Davis for their kind introductions. I have had the honor working with them for many years and I am grateful to have earned their support and trust. I would also like to thank former Secretary of Transportation Mineta and Acting Secretary Cino. I have worked closely with them and appreciate their support for my nomination.

As former Secretary Mineta stated often, one of our Nation's priorities must be to work relentlessly to prevent the transportation system in our country from turning into the choke point that restricts economic growth. Transportation infrastructure will require significant and continuous improvement in order to handle the anticipated growth of all types of traffic and to keep our economy moving. I believe that the decisions and policies of the STB can play a vital role in ensuring that our country rises to this congestion and infrastructure challenge. This is one of the reasons that I am excited about the prospect, if confirmed, of serving on the STB.

The STB is an independent adjudicatory body and as such its Members must be impartial, fair and open-minded. If confirmed, I will give all of the issues that come before the STB full, fair and impartial consideration. I would not take office with any preconceived ideas about the outcome of any issue. I would consider each matter on the merits and endeavor to make the right decision based on the facts and the law.

If confirmed, I will give all matters fair, impartial, careful and thoughtful consideration.

In conclusion, I would like to emphasize that, if confirmed, I would continue to work closely with the Congress and all stakeholders. I've worked for the Congress and I have complete respect for the letter and spirit of the laws crafted by this institution. All Members of Congress can be certain that I will be accessible and responsive to them and their staffs. Similarly, the STB's stakeholders can count on me to be accessible and open-minded.

I am honored to be under consideration for this important job and by the prospect of continuing to serve our great Nation and all of its citizens who depend on our transportation network.

Thank you for your consideration. I look forward to answering any questions you might have.

[The prepared statement and biographical information of Mr. Nottingham follow:]

PREPARED STATEMENT OF CHARLES D. NOTTINGHAM, NOMINEE TO BE A MEMBER OF
THE SURFACE TRANSPORTATION BOARD

Thank you Chairman Stevens and Co-Chairman Inouye. I am pleased to appear before this committee today as President Bush's nominee to the Surface Transportation Board (STB). I appreciate the Committee's willingness to schedule this hearing during a very busy time in the legislative season.

I would like to thank Senators Warner and Allen and Congressman Davis for their kind introductions. I have had the honor of working with them for many years and am grateful to have earned their support and trust. I would also like to thank former Secretary of Transportation Mineta and Acting Secretary Cino. I have worked closely with them and appreciate their support for my nomination. My wife, Catherine, and sons Garner and Charles, are with me today and seated in the audience.

I appear before this committee today as President Bush's nominee to the STB. The President has indicated that, if I am confirmed, he would designate me as Chairman of the STB. The STB is an independent agency with significant adjudica-

tive, regulatory and policymaking responsibilities. If confirmed, I will carry out these responsibilities in an impartial, fair, and effective manner.

I have dedicated my career to public service. My first job in Washington, D.C., was serving as an intern in Senator Lautenberg's office in the Summer of 1985. I recently had an opportunity to personally thank Senator Lautenberg for providing me with my first professional exposure to public service and for instilling in me an enduring and deep respect for Congress. My first job out of college was in the Justice Department's Environment and Natural Resources Division where I served in the civil service as a paralegal in 1988 and 1989.

After graduating from law school and being admitted to the Virginia Bar Association, I worked for Congressman Tom Davis as his Counsel and, eventually, as his Chief of Staff. I subsequently served as Chief of Staff to Congressman Bob Goodlatte. From 1998 to 2002, I served the Commonwealth of Virginia as the Assistant Secretary of Transportation and then as Commonwealth Transportation Commissioner—the Chief Executive Officer in charge of the Virginia Department of Transportation (VDOT). VDOT is the third largest state department of transportation in the Nation and employed approximately 10,500 people with an annual budget of \$3.2 billion. As the Commissioner of VDOT from 1999–2002, I learned invaluable lessons on how to manage a large, complex organization. I also gained first-hand experience in tackling the transportation challenges that confront ports, shippers, railroads, farmers and commuters alike.

Since 2002, I have served in the Federal Senior Executive Service as the Associate Administrator for Policy and Governmental Affairs at the Federal Highway Administration (FHWA). I worked closely with Congress in crafting the surface transportation reauthorization bill, SAFETEA-LU, which was enacted in August 2005. I have also worked closely with state, local and private stakeholders on advancing policies to address our Nation's growing transportation congestion problem and infrastructure capacity needs.

As former Secretary Mineta stated often, one of our Nation's priorities must be to work relentlessly to prevent the transportation system in our country from turning into the choke point that restricts economic growth. Freight traffic of all kinds in the U.S.—whether on the rails, roads, seaways, or by air—is forecast to double in volume over the next 20 years. Our existing transportation infrastructure will require significant and continuous improvement in order to handle the anticipated growth of all types of traffic and to keep our economy moving. I believe that the decisions and policies of the STB can play a vital role in ensuring that our country rises to this congestion and infrastructure challenge. This is one of the reasons that I am excited about the prospect, if confirmed, of serving on the STB.

The STB is an independent, adjudicatory body and, as such, its Members must be impartial, fair and open-minded. If confirmed, I will give all of the issues that come before the STB full, fair and impartial consideration. I would not take office with any preconceived ideas about the outcome of any issue. I would consider each matter on the merits and endeavor to make the right decision based on the facts and the law. If confirmed, I will give all matters fair, impartial, careful and thoughtful consideration.

In conclusion, I would like to emphasize that, if confirmed, I would continue to work closely with the Congress and all stakeholders. I have worked for the Congress and have complete respect for the letter and spirit of the laws crafted by this institution. All Members of Congress can be certain that I will be accessible and responsive to them and their staffs. Similarly, the STB's stakeholders can count on me to be accessible and open-minded.

I am honored to be under consideration for this important job and by the prospect of continuing to serve our great Nation and all of its citizens who depend on our transportation network. Thank you for your consideration and I look forward to answering any questions you might have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Charles Denmead Nottingham; "Chip".
2. Position to which nominated: Member, Surface Transportation Board.
3. Date of Nomination: June 5, 2006.
4. Address (List current place of residence and office addresses):

Residence: information not released to the public.

Office: U.S. Department of Transportation, Federal Highway Administration, Office of Policy and Governmental Affairs, Room 3317, 400 Seventh Street, SW, Washington, DC 20590.

5. Date and Place of Birth: September 23, 1965; Washington, D.C.

6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Spouse: Catherine Casey Nottingham (not currently employed; full-time parent).

Children: Garner Lewis Nottingham, age 9; Charles Southard Nottingham, age 6.

7. List all college and graduate degrees. Provide year and school attended.

Bachelor of Arts, Wesleyan University (Middletown, CT), 1989.

Juris Doctor, George Mason University School of Law, 1994.

8. List all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Associate Administrator for Policy and Governmental Affairs, Federal Highway Administration (2002–present).

Counsel, Committee on Government Reform, U.S. House of Representatives (2002).

Commonwealth Transportation Commissioner and Vice Chairman of the Commonwealth Transportation Board (Richmond, VA, 1999–2002).

Assistant Secretary of Transportation, Commonwealth of Virginia (1998–1999).

Chief of Staff, Congressman Bob Goodlatte (VA–6, 1997–1998).

Chief of Staff, Congressman Tom Davis (VA–11, 1996–1997).

Counsel, Congressman Tom Davis (VA–11, 1995–1996).

Legislative and Policy Consultant, American International Group, Inc. (Washington, D.C.), 1990–1991.

Legal and Legislative Assistant, Powell Goldstein Frazer and Murphy (Washington, D.C.), 1989–1990.

Paralegal, U.S. Department of Justice, Environment and Natural Resources Division (Washington, D.C.), 1988–1989.

Intern, Office of Senator Frank Lautenberg (Washington, D.C.), May–August, 1985.

9. List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.

10. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational or other institution within the last 5 years.

Uncompensated Trustee for the following two trusts created by my parents for the benefit of my two children: (1) Irrevocable Trust for Garner Lewis Nottingham (June 1998 to the present); (2) Irrevocable Trust for Charles Southard Nottingham (November 2000 to the present).

11. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age or handicap.

Memberships:

The University Club of Washington, D.C. (1990–present).

Virginia Bar Association (2004–present).

Fredericksburg (VA) Country Club (1998–present).

Bay Head (NJ) Yacht Club (2004–present).

Federalist Society for Law and Public Policy (1989–present).

The Fredericksburg German (hosts of an annual dance) (2004–present).

National Rifle Association (2004–present).

Ducks Unlimited (1999–present).

Republican National Committee (2000–present).

Darby Town Civic Association (neighborhood civic association in Fredericksburg, VA, 1996–2000).

St. George’s Episcopal Church, Fredericksburg, VA (member, 1996–present; Head Usher, 2004–present).

Friends of the Rappahannock (Fredericksburg area group dedicated to protecting the local river; 1997–2001).

Fredericksburg City Republican Committee (active member, 1997–2001; inactive, 2002–present).

Alexandria, VA City Republican Committee (1995–1997).

Capitol Hill Club, Washington, D.C. (2002–present).

Friends of the National Arboretum (2005, co-chair of annual clambake dinner fundraiser).

Central Virginia Battlefields Trust (historic land preservation group, 1999–present).

George Washington’s Ferry Farm Foundation (not-for-profit group dedicated to preserving Washington family properties in the Fredericksburg area; 1999–present)..

12. Have you ever been a candidate for public office? No.

13. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years.

2006: Federal—(1) Republican National Committee, \$250; (2) Friends of George Allen \$500.

State/local—none.

[note: all references to state/local contributions refer to political campaigns and organizations in the Commonwealth of Virginia.]

2005: Federal—(1) Friends of George Allen, \$1,000; (2) Republican National Committee, \$2,000; (3) Tom Davis for Congress, \$500.

State/local—(1) David B. Albo for Delegate, \$500; (2) Jeff Frederick for Delegate, \$500; (3) Kilgore for Governor, \$6,250.

2004: Federal—(1) Bill Manger for Congress, \$500; (2) Friends of Frank Wolf, \$1,000; (3) Thelma Drake for Congress, \$1,000; (4) Bush-Cheney 2004, \$2,000; (5) Bush-Cheney 2004 Compliance Committee, \$1,000; (6) Republican National Committee, \$1,000; (7) Tom Davis for Congress, \$1,000; (8) Federal Victory Fund, \$1,000.

State/local—(1) Dominion leadership Trust PAC, \$500.

2003: Federal—(1) Republican National Committee, \$2,000; (2) Jo Ann Davis for Congress, \$500.

State/local—(1) Thomas M. Bolvin for Delegate, \$500; (2) Mychele B. Brickner for Chair, Fairfax County Board of Supervisors, \$500; (3) Dominion Leadership Trust PAC, \$500; (4) Christian Hoff for Delegate, \$500; (5) Robert Stuber for Senate, \$500; (6) Virginians for Jerry Kilgore, \$500.

2002: Federal—(1) Tom Young for Congress, \$1,000; (2) National Republican Congressional Campaign Committee, \$1,000; (3) Republican National Committee, \$1,750; (4) Over the Hill PAC, \$1,000.

State/local—(1) George Allen’s Over the Hill Gang PAC, \$1,000.

2001: Federal—(1) Senator John Warner Committee, \$2,000.

State/local—(1) Earley for Governor, \$1,000; (2) William J. Howell for Delegate, \$1,000; (3) Kilgore for Attorney General, \$500.

2000: Federal—(1) Friends of George Allen, \$1,000; (2) Tom Davis for Congress, \$1,000; (3) Republican National Committee, \$1,000.

State/local: none.

1999: Federal—(1) Tom Davis for Congress, \$500.

State/local—(1) New Majority Project PAC, \$500; (2) Mel Sheridan for Senate, \$500; (3) Jane H. Woods for Senate, \$500.

1998: None.

1997: Federal—(1) Tom Davis for Congress, \$500.

State/local—(1) Gilmore for Governor, \$525.

1996: None.

14. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognition for outstanding service or achievements.

U.S. Secretary of Transportation "Secretary's Team Award," November 10, 2005; in recognition of contribution to enactment of H.R. 3—Surface Transportation Reauthorization Act of 2005.

15. Please list each book, article, column, or publication you have authored, individually or with others, and any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Numerous informal, unpublished remarks to local, state, and interest group delegations interested in transportation policy. No published writings.

16. Please identify each instance in which you have testified orally or in writing before Congress in a non-governmental capacity and specify the subject matter of each testimony: None.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers.

While working for the Commonwealth of Virginia between 1998 and 2002, I participated in a state employee defined contribution plan managed by Great West Life and Annuity Insurance Company and invested in the State Street Global Advisors Standard and Poor's 500 index fund. I accumulated approximately \$35,000 in this account while working for the Commonwealth. When I resigned my position with the Commonwealth, I decided to maintain this account. No additional contributions have been made to the account since my departure from state government. The account's value adjusts in accordance with the S&P 500. The account currently contains approximately \$45,000 in stock assets.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation or practice with any business, association or other organization during your appointment? No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

I anticipate no conflicts of interest if I am confirmed to be a Member of the STB. I have consulted with STB ethics counsel and confirmed that my stock ownership in AIG, Inc., an insurance and financial services company, is not likely to present any real or apparent conflict of interest because AIG is not involved in matters that come before the STB. In the unlikely event that AIG were to have financial interest in a matter before the STB, I would take appropriate action, based on the advice of STB ethics counsel, to avoid any real or apparent conflict of interest, including disqualifying myself from participating in the matter or seeking a waiver of the disqualification requirement.

My wife is a partner in two real-estate development partnerships owned by 10 members of her family (CC Casey Sons and CC Casey, LLC). The partnerships are dedicated to managing and developing partnership real estate in Williamsburg, VA. I am not involved in these partnerships, other than being married to my wife. In the unlikely event that either of the partnerships were to have financial interest in a matter before the STB, I would take appropriate action, based on the advice of STB ethics counsel, to avoid any real or apparent conflict of interest, including disqualifying myself from participating in the matter or seeking a waiver of the disqualification requirement.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 5 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated: None.

5. Describe any activity during the past 5 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

In 2001 and early 2002 I served as Commonwealth Transportation Commissioner for Virginia. In this capacity, I administered and executed state and Federal transportation and environmental laws and policies that were delegated to the Virginia Department of Transportation.

Between June 2002 and the present, I have served the U.S. Department of Transportation as Associate Administrator for Policy and Governmental Affairs at the Federal Highway Administration. In this capacity, I helped draft the Administra-

tion's proposed reauthorization of the surface transportation programs. I represented the views of the Administration on surface transportation issues in numerous meetings with Members and staff in the Congress. I have also provided extensive legislative and policy technical assistance related to surface transportation (mostly highway) issues to numerous Congressional offices and staff. I work on a regular basis to ensure that FHWA is properly implementing and executing laws and policies.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

I anticipate no potential conflicts of interest, based on consultation with STB ethics counsel. Also, both STB ethics counsel and the U.S. Office of Government Ethics have certified that my Public Financial Disclosure Report is in compliance with applicable laws and regulations governing conflicts of interest. Nevertheless, if a real or apparent conflict of interest were to arise or come to my attention, I would immediately consult with STB ethics counsel for advice on what action might be taken to avoid the conflict and then act on that advice. Actions available to me would include disqualifying myself from participating in the action involving the conflict, seeking a waiver of the disqualification requirement, if appropriate, or divesting the asset that gave rise to the conflict.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain.

Yes. In September, 1999 I received a citation from a Virginia Department of Game and Inland Fisheries officer while hunting dove (migratory bird) in Caroline County, Virginia on a private farm owned by a friend. The citation charged me with hunting without a shotgun "plug"—a device installed in the chamber of a shotgun to restrict the number of shells that can be loaded into the gun. Under Virginia law, migratory bird hunters must restrict their shotguns' ability to hold more than three shells. I had recently purchased a new shotgun and was told by the seller that it was properly equipped with a "plug." At the time of the citation, I was participating in a lawful hunt, carried the required license, and was well-within the 12-bird limit for dove in Virginia. I appeared in Caroline County General District Court in October 1999, explained the facts and circumstances to District Judge Tribble and denied knowingly or intentionally violating any law or regulation. The judge dismissed the charge without prejudice and without condition. I was represented in court by an eye witness and hunting companion on the day of the citation, Mr. Gordon Willis. He currently works as a judge in the Fredericksburg Circuit Court in Fredericksburg, VA.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination.

I would like the Committee to know that I have dedicated my life to public service ever since graduating from law school in 1994. For the past 8 years I have dedicated myself to improving our Nation's transportation infrastructure and to making the transportation sector more accountable to taxpayers.

I was the youngest Chief Executive Officer in the 100-year history of the Virginia Department of Transportation (VDOT) when appointed in 1999 at the age of 33. In that capacity, I managed a staff of 10,500 employees and an annual budget of \$3.2 billion. VDOT operates the third largest highway system in the United States with more miles than the Nation's entire Interstate system. I led a major organizational reform effort that focused on accountability, environmental stewardship, customer service, and transparency.

As Assistant Secretary of Transportation for Virginia (1998–1999) I worked extensively on railroad, port and shipping issues of concern to the Port of Hampton Roads, the two Class I freight railroads who were then headquartered in Virginia, short-line railroads and the entire shipping community in Virginia. From 1999–2002, I also served as Vice Chair of the Virginia Commonwealth Transportation Board, a position that gave me exposure to issues relating to all modes of transportation. In this capacity, I worked extensively with local governments and shippers

interested in the administration of the Virginia Industrial Rail Access Grant Program.

Prior to my state government experience, I served as Chief of Staff to Congressman Bob Goodlatte (VA-6) and Congressman Tom Davis (VA-11). My work for Congressman Goodlatte gave me extensive exposure to agricultural issues as his district is one of the most productive agricultural districts in the country. In this capacity, I spent extensive time in the Shenandoah Valley working with agricultural producers and short line and Class I freight railroads in an effort to improve access to markets for producers. My work for Congressman Tom Davis gave me extensive exposure to Federal civil service, government management and Federal procurement policy—experience that has served me well as a Senior Executive Service member and that would, if confirmed, be useful in my work as a Member of the STB.

From 2002 to the present I have managed four offices, four Senior Executive Service managers and more than 80 employees at the Federal Highway Administration. In this capacity I have gained extensive knowledge of freight transportation issues, the importance of leveraging every mode of transport to meet freight growth trends and the overall importance of an accessible, safe and reliable freight transportation network. My work at FHWA also includes oversight and direction of Congressional relations activities. I have had the privilege of providing assistance to numerous Senate offices and have a deep respect for and understanding of the importance of providing prompt, objective, and professional response to Congress and all customers. Finally, throughout my career, beginning in my first full-time job working at the Justice Department, and including my focus on environmental law in graduate school, and in my subsequent career, I have developed significant experience in environmental law and policy—especially National Environmental Policy Act and Clean Air Act issues. If confirmed, I am confident that this experience would be put to good use at the STB.

6. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion or any other basis? No.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

The CHAIRMAN. Thank you very much. Mr. Sumwalt is next and Mr. Sumwalt has been nominated to be a Member of the National Transportation Safety Board.

STATEMENT OF ROBERT L. SUMWALT III, NOMINEE TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD

Mr. SUMWALT. Thank you, Mr. Chairman, Mr. Co-Chairman and distinguished members of the Committee. I am honored to appear before you today as you consider confirmation of my nomination as a Member of the National Transportation Safety Board.

I am grateful to President Bush for the confidence he has placed in me through this nomination, and if confirmed, I intend to work diligently to contribute to the Safety Board's mission of preventing transportation accidents and maintaining the trust and confidence of the traveling public.

I would like to thank Senator Jim DeMint from my home State of South Carolina for his kind introduction and support and Senator Allen, thank you sir for your comments.

Additionally, I would like to thank NTSB Board Members, both past and present for being here today to show their support for this nomination.

Mr. Chairman, our nation's transportation system is the lifeblood of our economy and our national well-being. It is therefore, vital that this Nation keep this complex system safe, healthy and dependable. And although our transportation generally performs very well, when transportation accidents do occur, it is imperative that we be able to reassure the American public that the government is conducting full, timely, honest, confident and unbiased investigations. The Board must act with a dispassionate eye, objectively formulating and making safety recommendations to government and industry that will prevent reoccurrence and then following up on those recommendations as necessary. And since 1967, the NTSB has fulfilled this role.

The mission of the NTSB is very admirable. It is one that is dedicated to improving safety on our Nation's waterways, railways, highways and airways, as well as ensuring safety of pipelines and transportation of hazardous materials. And through the tireless efforts of dedicated NTSB employees, many potential accidents have been prevented, lives saved and countless injuries were reduced. In addition, the Safety Board has an important role of assisting the families of aviation accidents.

Clearly, the American public and the transportation community depend on the NTSB to fulfill its mission, not only in the wake of an accident, but by also being proactive through the Safety Board's advocacy role, by conducting safety studies and making safety recommendations. If confirmed, I will undertake to support the Safety Board in all of its endeavors.

Mr. Chairman, Senator DeMint outlined my qualifications, so I won't go through that, but one thing that I would like to add is that I have accident investigation experience working through the auspices NTSB's party system. I have investigated two air carrier accidents with the NTSB. Additionally, I have worked with the Transportation Safety Board of Canada as an observer in their investigation of the 1998 Swissair Flight 111 accident off the coast of Peggy's Cove in Nova Scotia. Through these personal and professional experiences, I have developed an abiding respect for the work of the Board and its professional staff.

Although I have a strong aviation safety background, I want to ensure you that if confirmed, I will not just limit my interest and attention to aviation safety. I feel strongly that the traveling public is entitled to and deserves safe transportation regardless of the transportation mode that they choose.

I will also diligently work to ensure that the Safety Board maintains its well-earned status as the world's preeminent transportation safety and accident investigation agency.

Mr. Chairman, if confirmed, I look forward to the opportunity to work in a professional and collegial fashion with Acting Chairman Rosenker, with my fellow Board Members, with the dedicated NTSB staff and with this committee as we work together to enhance transportation safety.

Thank you for your time and I look forward to answering your questions.

[The prepared statement and biographical information of Mr. Sumwalt follow:]

PREPARED STATEMENT OF ROBERT L. SUMWALT III, NOMINEE TO BE A MEMBER OF
THE NATIONAL TRANSPORTATION SAFETY BOARD

Thank you, Mr. Chairman, Mr. Co-Chairman, distinguished members of the Committee. I am honored to appear before you today as you consider confirmation of my nomination as a Member of the National Transportation Safety Board.

I am grateful to President Bush for the confidence he has placed in me through this nomination. If confirmed, I intend to work diligently to contribute to the Safety Board's mission of preventing transportation accidents and maintaining the trust and confidence of the traveling public.

I would also like to thank Senator Jim DeMint from my home State of South Carolina for his kind introduction and support.

With your permission I would like to introduce my wife, Anne, and our daughter Mackenzie, age 12.

Mr. Chairman, our Nation's transportation system is the lifeblood of our economy and national well-being. Therefore, it is vital that this Nation keep this complex system safe, healthy and dependable.

Although our transportation system generally performs very well, when transportation accidents do occur, it is imperative that we be able to reassure the American public that the government is conducting thorough, timely, honest, competent and unbiased investigations. The Board must act with an objective, dispassionate eye, formulating and making the recommendations to government and industry that will prevent recurrence and following up on the recommendations, as necessary.

Since 1967, the NTSB has fulfilled this role.

The mission of the NTSB is very admirable—one that is dedicated to improving safety on our Nation's waterways, railways, highways and airways, as well as ensuring safety of pipelines and transportation of hazardous materials. Through the tireless efforts of dedicated NTSB employees, many potential accidents have been prevented, lives saved and countless injuries reduced. In addition, the Safety Board has an important role of assisting the families of victims of aviation accidents.

Clearly, the American public and the transportation community depend on the NTSB to fulfill its mission, not only in the wake of an accident, but also to be proactive through the Safety Board's advocacy role, by conducting safety studies and by making safety recommendations. If confirmed, I will undertake to support the Safety Board in all its endeavors.

Mr. Chairman, my background includes a combination of experience in aviation management, accident and incident investigation, teaching human factors and its relationship to transportation safety, and actively working to create aviation safety programs. I am an active pilot and have been flying for over 32 years including 24 years as a pilot for a major U.S.-based international air carrier. I currently manage the corporate flight department for a Fortune 500 company.

Working through the auspices of the NTSB's party system, I have worked with the Safety Board on two major air carrier accident investigations. I also participated as an observer with Transportation Safety Board of Canada in their investigation of the 1998 Swissair Flight 111 accident off the coast of Peggy's Cove, Nova Scotia. Through these personal and professional experiences, I have developed an abiding respect for the work of the Board and its professional staff.

Although I have a strong aviation safety background, I want to assure you that if confirmed, I will not limit my interests and attention to aviation. I believe the traveling public is entitled to and deserves safe transportation, regardless of the transportation mode they chose.

I will also work diligently to ensure that the NTSB maintains its well-earned status as the world's preeminent transportation safety and accident investigation agency.

Mr. Chairman, if confirmed, I look forward to the opportunity to work in a professional and collegial fashion with Acting Chairman Rosenker, my fellow Board Members, the dedicated NTSB staff and this committee to enhance transportation safety.

Thank you for your time and I look forward to answering your questions.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Robert Llewellyn Sumwalt III.

2. Position to which nominated: Member, National Transportation Safety Board.

3. Date of Nomination: June 6, 2006.
 4. Address (List current place of residence and office addresses):
 Residence: information not released to the public.
 Office: SCANA Corporation, Aviation Department, 2695 Aviation Way, West Columbia, SC 29170.
 5. Date and Place of Birth: June 30, 1956; Columbia, SC.
 6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).
 Anne Macdonald Sumwalt, Jewelry Designer, Self-employed, working from home, DBA Whimsy.
 Kaylyn Mackenzie Sumwalt, Age 11.
 7. List all college and graduate degrees. Provide year and school attended: Bachelor of Science, University of South Carolina, 1979.
 8. List all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.
 SCANA Corporation, Manager of Aviation, November 2004–present (Managing corporate flight department for a Fortune 500 company).
 US Airways, Airline Pilot, February 1981–November 2004 (Assigned to Corporate Safety Department on temporary assignment, 1997–2004)
 9. List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.
 Air Line Pilots Association, International, Volunteer/advisory role; Chairman, Human Factors and Training Group; Member, Accident Investigation Board; Air Safety Representative, 1987–2004.
 University of Southern California Aviation Safety and Security Program, Human Factors Instructor, 2003–present.
- I have consulted on Aviation Safety matters for the following organizations:
- Pfizer Aviation Department (January 2006), 1001 Jack Stephan Way, West Trenton, NJ 08628.
- REACH Air Medical Services (November 2005), 451 Aviation Blvd., Suite 201, Santa Rosa, CA 95403.
- Merck Aviation Department (December 2002–January 2004), 100 Sam Weinroth Road, West Trenton, NJ 08625.
- ConocoPhillips (July 2003–October 2003), Global Aviation Services, George Bush International Airport, 16901 JFK Blvd., Houston, TX 77205.
- ConocoPhillips Alaska (April 2004–May 2005), Aviation Department, 6601 South Airpark Place, Anchorage, AK 99502.
- Robbins, Kaplan, Miller & Ciresi, LLP (November 2002–December 2002), 2800 LaSalle Plaza, 800 LaSalle Avenue, Minneapolis, MN 55402–2015.
- Andrews and Kurth, LLP (September 2001–May 2004), 600 Travis Street, Suite 4200, Houston, TX 77002–3090.
- Dodd and Associates (June 2002–August 2003), 2008 Grandview Avenue, Gambrills, MD 21054–1730.
- TAME Airlines (June 2002), Avs.Amazonas 1354 Quito, Ecuador.
- The Klinect Group (June 2002–February 2003), LOSA Collaborative, P.O. Box 684645, Austin, TX 78768.
- Air Methods (April 2004), Englewood, CO.
- Instituto Tecnológico de Aeronautica (October 2004), Sao Jose dos Campos, Sao Paulo, Brazil.
- DuPont Corporate Aviation Department (July 2003), Wilmington, DE.
- Bookspan (2001), Mechanicsburg, PA.
- I have written articles and received compensation for writing these articles from the following organizations:
- Queensmith Communications (May 1985–present), *Professional Pilot Magazine*, 30 S. Quaker Lane, Suite 300, Alexandria, VA 22314.

Flight Safety Foundation (June 1994–August 2003), 601 Madison Street, Suite 300, Alexandria, VA 22314.

Members of Committees

National Business Aviation Association (NBAA). Since January 2005 I have served on NBAA Safety Committee.

Flight Safety Foundation (FSF). Since 1993 I have been a member of FSF ICA-RUS Committee.

Air Line Pilots Association, Member, March 1982–January 2005; Chairman, Human Factors and Training Group (1998–2004); Member, Accident Investigation Board (2002–2004).

Eastminster Presbyterian Church, USA, Member of Deaconate, 2001–2004.

Federal Aviation Administration Aviation Safety Counselor, 2000–present.

Southeastern Aviation Safety Roundtable, Member, 2005–present.

10. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational or other institution within the last 5 years.

My response to *Question 9* lists all organizations that I have consulted for, or those that I have been a representative of during the past 5 years. Of those, there is only one that I was officially considered to be an officer and that organization is Eastminster Presbyterian Church, USA, (Columbia, SC); my officer role was Deacon. (2001–2004).

11. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age or handicap.

Note: None of these organizations restrict membership on the basis of sex, race, color, religion, national origin, age or handicap.

Air Line Pilots Association, Member, March 1982–January 2005; Chairman, Human Factors and Training Group (1998–2004); Member, Accident Investigation Board (2002–2004).

Aircraft Owners and Pilots Association, Member, October 2005–Present.

Flight Safety Foundation Icarus Committee, Member, July 1993–Present.

University of South Carolina Alumni Association, Member, Approximately 1980–present.

Forest Lake Club (Country Club), Member, 1981–present.

Columbia Ball (Debutante Ball), Member, Approximately 1995–present.

Cotillion Ball (Debutante Ball), Member, Approximately 2003–present.

International Society of Air Safety Investigators, Affiliate Member, Approximately 1995–present.

National Business Aviation Association, Member, 2002–2004; Member, NBAA Safety Committee, 2005–present.

Eastminster Presbyterian Church, Member, 1995–present; Deacon, 2001–2004.

Federal Aviation Administration, Aviation Safety Counselor, 2000–present.

Southeastern Aviation Safety Roundtable, Member, 2005–present.

National Speakers Association, Member, 2003–2004.

Soaring Society of America, Member, 1998–2002.

12. Have you ever been a candidate for public office? No.

13. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years: Henry McMaster for S.C. Attorney General—\$500—November 2005.

14. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognition for outstanding service or achievements.

Flight Safety Foundation Laura Taber Barbour Air Safety Award. 2003. This annual award was established in 1956. The award recognizes notable achievement in the field of aviation safety—civil or military—in method, design, invention, study or other improvements. The award's recipient is selected for a "sig-

nificant or group effort contributing to improving aviation safety, with emphasis on original contributions,” and a “significant individual or group effort performed above and beyond normal responsibilities.”

ALPA Air Safety Award. 2004. This award is the highest honor for an air safety representative of the Air Line Pilots Association. It is bestowed each year on a pilot who has made significant contributions to safety through volunteer service in the Association’s air safety structure.

15. Please list each book, article, column, or publication you have authored, individually or with others, and any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Sumwalt, R.L., and Boyer, R.D., “Applying Operational Risk Management in Corporate Flight Operations.” In *Proceedings from the 51st annual Flight Safety Foundation/National Business Aviation Association Corporate Aviation Safety Seminar (CASS)*, May 9–11, 2006. Phoenix, AZ.

Sumwalt, R.L., “Accident Analysis: Failure to Monitor Airspeed Leads to Loss of Control.” *Professional Pilot Magazine*. November 2005.

Acceptance Speech for Receipt of ALPA Annual Air Safety Award. Air Line Pilots Association Air Safety Forum, August 18, 2005.

Sumwalt, R.L., “Enhancing Flight-crew Monitoring Skills Can Increase Corporate Aviation Safety.” In *Proceedings from the 49th annual Flight Safety Foundation/National Business Aviation Association Corporate Aviation Safety Seminar (CASS)*, April 27–29, 2004. Tucson, Arizona.

Walters, J.M. and Sumwalt, R.L., “Accident Analysis: Aspen CFIT Accident.” *Professional Pilot Magazine*. October 2003.

Sumwalt, R.L., “Airplane Upset Recovery Training: A Line Pilot’s Perspective.” *Flight Safety Digest*. July–August 2003.

Sumwalt, R.L., Thomas, R.J., Dismukes, R.K. “The Last Line of Defense Against Aviation Accidents.” Viewpoint Editorial in *Aviation Week and Space Technology*. August 25, 2003.

Sumwalt, R.L., “Cockpit Monitoring.” *Professional Pilot Magazine*. August 2003.

Sumwalt, R.L., O’Neill, J. “Runway Changes: Managing the Threat.” *Safety On Line*. Spring 2003.

Sumwalt, R.L., Thomas, R.J., Romeo, C., “Newly implemented Line Operations Safety Audit produces valuable data for air carrier.” *ICAO Journal*. Number 1, 2003. Volume 58.

Sumwalt, R.L. and Walters J.M., “Accident Analysis: Missing the Runway Completely.” *Professional Pilot Magazine*. January 2003.

Sumwalt, R.L., “Setting the FCU Improperly Can Lead to an Unauthorized Open Descent.” *Safety On Line*. Winter 2003.

Sumwalt, R.L., Thomas, R.J., Dismukes, R.K. “Enhancing Flight-crew Monitoring Skills Can Increase Flight Safety.” In *Proceedings from the Joint Meeting of the 55th annual FSF International Air Safety Seminar (IASS), 32nd IFA International Conference*. November 4–7, 2002. Dublin, Ireland.

Sumwalt, R.L., “Aircraft Accident and Incident Investigation.” In *The Standard Handbook for Aeronautical and Astronautical Engineers*. McGraw Hill. 2002

Sumwalt, R.L., “How to Set Up a LOSA—US Airways Experience.” Chapter 4 in *ICAO Line Operations Safety Audit (LOSA) Manual*. ICAO Document 9803 AN/761. First Edition—2002.

Sumwalt, R.L. and Walters, J.M., “Accident Analysis: Lear 35A vanishes from radar near LEB.” *Professional Pilot Magazine*. June 2002.

Sumwalt, R.L. and Thomas, R.J., “Findings from the US Airways Line Operations Safety Audit (LOSA).” *Safety On Line*. Spring 2002.

Sumwalt, R.L. and Walters, J.M., “Accident Analysis: Falcon 900 overrun. Hyannis, MA. March 17, 2000.” *Professional Pilot Magazine*. April 2002.

Sumwalt, R.L., “Error management gives pilots weapons against taxiway and runway problems.” *Professional Pilot Magazine*. January 2002.

Sumwalt, R.L. and Walters, J.M., “Accident Analysis: Destabilized flare and hard landing lead to disaster.” *Professional Pilot Magazine*. November 2001.

Sumwalt, R.L. and Walters, J.M., “Accident Analysis: Niner Mike is in trouble.” *Professional Pilot Magazine*. September 2001.

- Sumwalt, R.L. and Walters, J.M., "Accident Analysis: Failure to monitor level-off at MDA leads to CFIT accident." *Professional Pilot Magazine*. April 2001.
- Sumwalt, R.L. and Walters, J.M., "Accident Analysis: Nothing good comes from an unstabilized approach." *Professional Pilot Magazine*. March 2001.
- Walters, J.M. and Sumwalt, R.L., "Accident Analysis: Revisiting the steps that can lead to disaster," *Professional Pilot Magazine*. December 2000.
- Walters, J.M. and Sumwalt, R.L., "Accident Analysis: On HOU to IAH, First Approach was Bad, Second was Fatal." *Professional Pilot Magazine*. March 2000.
- Walters, James M. and Sumwalt, Robert L., *Aircraft Accident Analysis: Final Reports*. McGraw Hill. 2000. (ISBN 0-07-135149-3)
- Sumwalt, R.L., Thomas, R.J., "Enhancing Safety Through Error Management." In *Proceedings from the Joint Meeting of the 52nd annual FSF International Air Safety Seminar (IASS), 29th IFA International Conference*. November 8-11, 1999. Rio de Janeiro, Brazil.
- Sumwalt, R.L., "Enhancing Flight-crew Monitoring Skills Can Increase Flight Safety." *Flight Safety Digest*. March 1999.
- Sumwalt, R.L., "Enhancing Safety Through Error Management." *US Airways Safety On Line*. March 1999.
- Sumwalt, R.L., "The Wrong Stuff: Troubled Cockpit Interpersonal Relations Can Affect Safety." *Professional Pilot Magazine*. February 1999.
- Dismukes, K., Young, G., and Sumwalt, R.L., "Cockpit Interruptions and Distractions." *ASRS Directline*. December 1998.
- Sumwalt, R.L., "Integrating Human Factors into Aircraft Accident Investigations." *ISASI Forum*. June-August 1998. International Society of Air Safety Investigators.
- Sumwalt, R.L., "Closing the Gap on CFIT." *Professional Pilot Magazine*. January 1998.
- Sumwalt, R.L. "Can You Throw Another Log on the Fire: Be Careful What You Say." *US Airways SAFETY ON LINE*. December 1997.
- Sumwalt, R.L., Morrison, R.F, Watson, A. and Taube, E., "What ASRS Data Tell About Inadequate Flight Crew Monitoring." In *Proceedings of the Ninth International Symposium on Aviation Psychology*, Columbus, Ohio. April, 1997. (This paper prepared under subcontract for NASA's Aviation Safety Reporting System.)
- Sumwalt, R.L., "Avoiding the Fate of Icarus." *Air Line Pilot*. April 1997.
- Sumwalt, R.L., "A Human Performance Evaluation: The Effects of Airport Curfews on Flight Crew Performance." *Air Line Pilot*. March 1997.
- Sumwalt, R.L., "Finding Fault." *Professional Pilot Magazine*. February 1997.
- Sumwalt, R.L., "Aircraft Malfunctions Require Crew Coordination." *Professional Pilot Magazine*. January 1996.
- Sumwalt, R.L., "Altitude Awareness Programs Can Reduce Altitude Deviations." *Flight Safety Digest*. December 1995.
- Sumwalt, R.L., "ASRS Incident Data Reveal Details of Flight-crew Performance During Aircraft Malfunctions." *Flight Safety Digest*. October, 1995.
- Sumwalt, R.L., "The Quest for Aviation Safety's Holy Grail: Finding Underlying Causes of Accidents and Incidents or, If You Really Want to Improve Aviation Safety, You Must First Identify Systemic Problems." In *Proceedings of Workshop on Accident and Incident Human Factors*. FAA, June 1995.
- Mancuso, V., Sumwalt, R.L., "Human Factors Evaluation: Runway Collision Between TWA Flight 427 and Superior Aviation Cessna 441, STL Airport, November 22, 1994." Airline Pilots Association, May 1995.
- Sumwalt, R.L., "Coping with Tiredness—Fatigue Part 2." *Professional Pilot Magazine*. May 1995.
- Sumwalt, R.L., "Flying Alert—Fatigue, Part 1." *Professional Pilot Magazine*. April 1995.
- Sumwalt, R.L., Watson, A. "What ASRS Incident Data Tell About Flight Crew Performance During Aircraft Malfunctions." In *Proceedings of the Eighth International Symposium on Aviation Psychology*, Columbus, Ohio. April 1995.) (This paper prepared under subcontract for NASA's Aviation Safety Reporting System.)

- Sumwalt, R.L., Cox, J.M. "Aircraft Incident Report. Controlled Flight Into Terrain: American West Flight 754, DFW Airport, December 8, 1993." Air Line Pilots Association. September 1994.
- Sumwalt, R.L., "Accident and Incident Reports Show Importance of "Sterile Cockpit Compliance," *Flight Safety Digest*. July 1994.
- Sumwalt, R.L., "Crew Resource Management for All Operators." *ASRS Callback*. July 1994. (This paper prepared under subcontract for NASA's Aviation Safety Reporting System.)
- Sumwalt, R.L., "There's No Such Thing as a Little Ice." *Professional Pilot Magazine*. January 1994.
- Sumwalt, R.L., "Watch Your Altitude." *ASRS Callback*. December 1993. (This paper prepared under subcontract for NASA's Aviation Safety Reporting System.)
- Sumwalt, R.L., "Incident Reports Highlight Problems Involving Air Carrier Ground Deicing/Anti-icing." *Flight Safety Foundation Airport Operations*. September/October 1993.
- Sumwalt, R.L., "The Sterile Cockpit." *ASRS Directline*. June 1993. (This paper prepared under subcontract for NASA's Aviation Safety Reporting System.)
- Sumwalt, R.L., "Aircraft Ground Deicing Problems: Recommendations from Analysis of ASRS Incident Data." In *Proceedings of SAE Aircraft Ground Deicing Conference*, Salt Lake City, Utah, June 1993.
- Sumwalt, R.L., "ASRS Problems Involving Air Carrier Ground Deicing/Anti-icing." In *Proceedings of the Seventh International Symposium on Aviation Psychology*, Columbus, Ohio. April 1993. (This paper prepared under subcontract for NASA's Aviation Safety Reporting System.)
- Sumwalt, R.L., "Ground Deicing Problems in Air Carrier Operations." *ASRS Callback*. February 1993. (This paper prepared under subcontract for NASA's Aviation Safety Reporting System.)
- Sumwalt, R.L., "Rejected Take-off Considerations for Fokker 100 and F28." *Fokker Aircraft Wingtips*. December 1992.
- Sumwalt, R.L., "Preventing Pilot-caused Runway Incursions." *Professional Pilot Magazine*. December 1992.
- Sumwalt, R.L., "Accident Investigation School Teaches How to Find Probable Cause." An inside look at the NTSB's accident investigation school. *Professional Pilot Magazine*. October 1992.
- Sumwalt, R.L., "Leadership on the Flightdeck Reflects Training." *Professional Pilot Magazine*. June 1992.
- Sumwalt, R.L., "Taxi!" *ASRS Directline*. Summer 1992. (This paper prepared under subcontract for NASA's Aviation Safety Reporting System.)
- Sumwalt, R.L., "NTSB's John Lauber Digs for Probable Cause." *Professional Pilot Magazine*. January 1992.
- Sumwalt, R.L., "Weather or Not to Go." *Professional Pilot Magazine*. January 1992.
- Sumwalt, R.L., "Be Prepared to Abort: Rejected Takeoffs, Part Two." *Professional Pilot Magazine*. December 1991.
- Sumwalt, R.L., "Rejected Takeoffs. Part One." *Professional Pilot Magazine*. November 1991.
- Sumwalt, R.L., "The Importance of Proper Aviation Weather Dissemination to Pilots: An Airline Captain's Perspective." In *Proceedings of the Fourth International Symposium on Aviation Weather Systems*, Paris, France. June 1991.
- Sumwalt, R.L., "Eliminating Pilot-Caused Altitude Deviations: A Human Factors Approach." In *Proceedings of the Sixth International Symposium on Aviation Psychology*, Columbus, OH. May 1991.
- Sumwalt, R.L., "Checking the Checklist." *Professional Pilot Magazine*. March 1991.
- Sumwalt, R.L. "Altitude Callouts: Who, When and Why." *Airwaves*. February 1991.
- Schwab, A., Sumwalt, R.L., *The Terminal Checklist Book*. Queensmith Publications, December 1990.
- Sumwalt, R.L., "Flightcrew Interactions." *Professional Pilot Magazine*. November 1990.
- Sumwalt, R.L. "Altitude Awareness." *Professional Pilot Magazine*. September 1990.

- Sumwalt, R.L., "Gulfstream 4 Phase 2 Flightcheck." *Professional Pilot Magazine*. February 1990.
- Sumwalt, R.L., "Piaggio P180 Avanti Flightcheck." *Professional Pilot Magazine*. July 1989.
- Sumwalt, R.L., "Slippery When Wet." *Professional Pilot Magazine*. March 1989.
- Sumwalt, R.L., "Stop! More Efficiently." *Professional Pilot Magazine*. September 1988.
- Sumwalt, R.L., "The Cat's Eye (FLIR Technology to Enhance Instrument Landings)." *Professional Pilot Magazine*. September 1988.
- Sumwalt, R.L., "Fokker 50 Flightcheck." *Professional Pilot Magazine*. August 1988.
- Sumwalt, R.L., "Advanced Avionics: The New Generation." *Professional Pilot Magazine*. May 1988.
- Sumwalt, R.L., "Fokker 100 Flightcheck." *Professional Pilot Magazine*. March 1988.
- Sumwalt, R.L., "Cockpit Resource Management." *Professional Pilot Magazine*. December 1987.
- Sumwalt, R.L., "Category 3 Operations." *Piedmont Airlines B737 Flight Crew Training Manual*. September 1987.
- Sumwalt, R.L., "TCAS Growing Pains." *Professional Pilot Magazine*. April 1987.
- Sumwalt, R.L., "Improving Stopping Efficiency." *Piedmont Airlines Operations Update*. December 1986.
- Sumwalt, R.L., "Improving Pilot Interpretation of Airborne Weather Radar." *Professional Pilot Magazine*. June 1986.
- Sumwalt, R.L., "F28 Flightcheck." *Professional Pilot Magazine*. March 1986.
- Sumwalt, R.L., "Low Visibility Operations." *Professional Pilot Magazine*. February, 1986.
- Sumwalt, R.L., "Deadly Persuader: Low Altitude Windshear." *Professional Pilot Magazine*. October 1985.
- Sumwalt, R.L., "Fuel Management Guide for Pilots." *Piedmont Airlines Route Manual*. August 1985.
- Sumwalt, R.L., "Flying By the Book." *Professional Pilot Magazine*. May 1985.
- Sumwalt, R.L., "Descent Techniques for Fuel Efficiency." *Piedmont Airlines Operations Update*. Piedmont Airlines. March 1985.
- Sumwalt, R.L., "Fuel Conservation." *Piedmont Airlines Operations Update*. December 1984.

16. Please identify each instance in which you have testified orally or in writing before Congress in a non-governmental capacity and specify the subject matter of each testimony: None.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers.

I retired from US Airways and am the recipient of a pension that is based upon service with US Airways. However, with US Airways' bankruptcy, the pension is handled through the Pension Benefits Guaranty Corporation and, as such, is no longer contingent upon US Airways. The Ethics Agreement that I have entered into with the NTSB Ethics Official contains a provision that is designed to avoid any appearance of conflict in cases before the Board in which US Airways is or represents a party.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation or practice with any business, association or other organization during your appointment? If so, please explain.

No. My Ethics Agreement stipulates that I will resign my positions with the entities with which I have an active, on-going position or involvement.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

I currently own stock in Exxon Mobile Corporation and SCANA Corporation. The NTSB's Designated Agency Ethics Officer (DAEO) has advised me that these financial holdings could create the potential for a conflict of interest for me in my capacity as a Member of the NTSB, should I be confirmed. Therefore, in accordance with

NTSB DAEO's direction and advice, my Ethics Agreement states, ". . . I understand that, should I be confirmed as a Member of the NTSB, within a reasonable period of time thereafter, in order to perform the duties of Board Member and avoid conflicts under 18 U.S.C. §208, I will be required to divest these financial interests."

Currently I have funds in my employer's (SCANA Corporation) 401(k) program. My SF278, "Executive Branch Personnel Public Financial Disclosure Report," Schedule C, Part II, dated June 6, 2006 states: "Pursuant to employment contract, [I] will be able to leave investments in the 401(k) program of SCANA. I will not be able to continue investing in the fund and SCANA will make no contributions to the fund subsequent to my resignation from the company."

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 5 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

My Ethics Agreement points out that I am I am retired from US Airways, for whom I served as an airline pilot for approximately 24 years. The retirement/pension to which I should have been entitled is now provided and handled under the auspices of the Pension Benefit Guaranty Corporation, a governmental agency. I have no financial interest in US Airways. However, with regard to the sensitivities of what might be perceived as a relationship with this former employer, the NTSB's Designated Agency Ethics Officer (DAEO) has advised me, and I have agreed that if confirmed to this position, I will not participate in any particular matter that comes before the Board involving specific parties in which US Airways, or any wholly owned subsidiary of US Airways, is or represents a party unless authorization to participate is granted in accordance with the procedures set forth at 5 CFR §2635.502.

My Ethics Agreement further states that should I be confirmed to this position, prior to commencing my duties as a Member of the NTSB. I will resign my positions with the entities with which I have an active, on-going position or involvement. Further, pursuant to 5 CFR §2635.502, I will not participate in any particular matter involving specific parties in which any of these entities is or represents a party for a period of 1 year after my resignation from the entity unless authorization to participate is granted in accordance with procedures set forth at 5 CFR §2635.502.

5. Describe any activity during the past 5 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy: None.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In accordance with my EA, I have agreed to recuse myself in circumstances that would be a conflict of interest and to seek advice in those situations in which there was an appearance of a conflict.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination.

There is nothing unfavorable.

As far as favorable information, I would like the Committee to know that I have a longstanding commitment to and passion for improving aviation safety. I will work very diligently to use my knowledge, skills and experience to help improve safety in all modes of transportation safety. My work ethic is unsurpassed. Below is a summary of my credentials.

- Strong background with aircraft accident investigation, including serving as a party member of accident investigations with NTSB and Transportation Safety Board of Canada.
- Co-authored book on aircraft accidents. This book is used as a textbook for all accident investigation courses taught by Embry Riddle Aeronautical University.

- Published over 85 articles on aircraft accident investigation, aviation human factors, cockpit procedures issues and aviation safety program development.
 - Currently teach human factors in the University of Southern California's Aviation Safety and Security Program.
 - Recipient of two prestigious air safety awards: Flight Safety Foundation Laura Taber Barbour Air Safety Award (2003) and ALPA Air Safety Award (2004).
 - Served as an airline pilot for 24 years with US Airways.
 - Currently manage the aviation department for a Fortune 500 company.
 - Served on Air Line Pilots Association (ALPA) Accident Investigation Board.
 - Served as Chairman of Human Factors and Training Group of ALPA.
 - Strong writing, public speaking and interpersonal skills.
 - Team player and consensus builder.
6. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion or any other basis? No.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.
2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.
3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.
4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

The CHAIRMAN. Thank you very much Mr. Sumwalt. First, Senator Lott has not commented. Go ahead Senator Lott.

STATEMENT OF HON. TRENT LOTT, U.S. SENATOR FROM MISSISSIPPI

Senator LOTT. Thank you Mr. Chairman. I just wanted to come and express my appreciation for this group of nominees. It is an outstanding group. You may not have been nominated to be Cabinet Secretaries yet, but you are all nominated for very important assignments. I am familiar with the background of several of you, and I think you are really a well-qualified group.

I do want to thank Mr. Nottingham for his help in the aftermath of Hurricane Katrina. We did have occasion to seek his assistance with some of our issues there along the Gulf Coast. You were very helpful and we appreciate that.

I am glad to see us putting some local elected officials in some of these positions. I think it will serve us all well. I do want to emphasize that you all have these important assignments. I am very concerned about Maritime Administration and the strength of our maritime industry. We have some problems we are facing right now. I want to make sure the Administration understands and appreciates the need for the Jones Act, and so I'm counting on you Mr. Connaughton, to work with us to make sure we do the right thing for the maritime industry.

And also, Mr. Nottingham, let me just say that I have a lot of interest in surface transportation and railroads. We have an opportunity here to improve service, expand capacity, better serve the economy, and prepare for the future. I am counting on you to provide fair and strong leadership as we move in that direction.

So congratulations to all of you. I certainly will support your nominations and I hope we can move them before the August recess. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much. Let me first start with comments and questions for Mr. Sumwalt.

Three of the saddest days of my life involve briefings from your agency. One was an airplane that I barely missed getting on and it crashed, and with many of my friends on board and I was briefed on what happened to that airplane.

The second was when I survived the crash and five people including my wife were killed and they came and told me what had happened.

And the third was when the Alaska Airlines coming out of Mexico went into an inverted spin and crashed carrying a whole series of people that I had grown up with. Your Board has more contact I think with the people than you realize, and we all when we are exposed to circumstances like that want to know what happened. So, I want to ask you a couple of sort of preventive questions. I'm sure you know that the recent reduction in our accident rate in Alaska has been dramatic; brought about by the Medallion program and the programs that we put into effect to have continuing education for pilots and to continue the utilization of new technology. Have you ever been in Alaska?

Mr. SUMWALT. Yes, sir I have had the pleasure to make three visits; twice in 2004 to work with a large corporation as a consultant for them in Alaska. I was there to work with their company to help them with some aviation safety issues and—yes, sir?

The CHAIRMAN. Did you travel around the state? Are you familiar with some of the problems we face with 70 percent of our cities reached only by air, and the problems of mixing cargo and passengers and trying to keep planes flying long after they are utilized in other parts of the country, if not the world?

Mr. SUMWALT. Yes, sir I have a folder about 1 inch thick in my briefcase about aviation safety issues in Alaska, and I read all of the proceedings from the field committee hearing that you held on July 5. I have tried to familiarize myself with those issues. I am very familiar with the Medallion Foundation. I know Jerry Dennis and several of the staff there, and I am very happy with what they have been able to do.

The CHAIRMAN. Well, you come very highly recommended by Senator DeMint, and I have looked into your own record personally because I have such an extreme interest in your Board and I welcome you and look forward in assisting you in terms of your confirmation.

Mr. SUMWALT. Thank you, sir.

The CHAIRMAN. Admiral, just one question for you. I am sure you are familiar with this. The report of the National Academies entitled *"Rising Above the Gathering Storm?"*

Admiral COHEN. Yes, sir.

The CHAIRMAN. I, and this committee, have been very much involved with that and the indication that the unintended consequence of our handling graduate students from our universities so that once they are getting their education, they are going elsewhere, particularly to China and India, and really the failure of

many institutions to recognize the challenges that they face. Do you feel in your work as Under Secretary of Homeland Security you can have an impact on the problems outlined by that report?

Admiral COHEN. Absolutely, Mr. Chairman. First of all, I would like to compliment you. I learned from your staff of your extensive efforts in mentoring people on your staff over many years, and I think mentoring is absolutely the most effective, if not the most efficient way to help turn this around. But in my personal view, we are in a crisis in this country in science and technology. Young students in the middle schools are turning away from math and science. You have already indicated a problem with graduate and post-graduate degrees in students. We grew up with Mr. Wizard and each of us can remember a teacher that changed our lives in math and science, made it fun, made it challenging. I think a current statistic is as many as 80 percent of high school math and science teachers today, although good teachers, have not been specifically trained in math and science. This goes to not only our national security, but our economic well-being, the economic and innovation engine that powers our economy. You know some of the things, as does Co-Chairman Inouye, that I did naval research with summer interns, bringing them into our government laboratories, exposing them to scientists and engineers for rising juniors, seniors and graduate students, and if confirmed, I can tell you that in the long-term, the dedicated research component of my portfolio, I will be personally involved with this and I salute you for bringing this to everyone's attention, sir.

The CHAIRMAN. Thank you and thank you once again for bringing these distinguished ladies to our committee hearing today.

Mr. Weinecke, NOAA has a substantial impact on the offshore states that the Co-Chairman and I represent, and we are disturbed by the fact that there hasn't been a real articulate advocate for NOAA and NOAA continues to get cuts as the budget goes through the Office of Management and Budget. Can you tell us that you are going to take that role of advocating NOAA for the future?

Mr. WEINECKE. Mr. Chairman, I can tell you that I will absolutely be an advocate for your voice and the Members of this committee on the Hill and within the Department of Commerce for NOAA; it is an incredibly important part of our mission and is over 60 percent of our budget. At the Department it is—the resources that they bring to bear for your constituents and the entire country are critical and I commit to do that.

The CHAIRMAN. Well, we've lost the leadership of an old friend. Senator Hollings was our expert in the oceans for many years and he was very articulate. He really wanted NOAA to become an independent agency, and we didn't cooperate with him on that, but I am coming close to saying he was right, and unless something is done down there at the Department of Commerce that puts the emphasis on NOAA it should have, I intend during the next Administration to try and make it an independent agency. You've got a couple years to convince us that that agency has a spokesman and advocacy that it needs.

Sean Connaughton, I don't have any questions for you either, but I do think you have a terrific job ahead of you to improve the competitiveness of U.S. Maritime industry, and I hope you are pre-

pared to come before the Committee and give us some ideas and new plans for the improvements of the maritime ship disposal program. We look forward to hearing from you following your confirmation.

Mr. Nottingham, I hope you listened to Senator Lott. He probably is our leader here in the total concept of surface transportation, and I do think we have one great issue and that is the use of arbitration to settle rate disputes. I think this committee ought to go into that subject. We will seek your views on the use of arbitration and rate disputes in the future.

Thank you very much.

Senator Inouye.

Senator INOUE. Thank you very much. Admiral Cohen, I am certainly aware that the Congress has been a bit disappointed with the performance of the Science and Technology directorate. There is no integrative research planned with performance measures. What actions do you intend to take to improve the directorate?

Admiral COHEN. Well, Co-Chairman Inouye, I know your personal interest in science and technology as an incubator of innovation and how important that is, not only for Hawaii, but also for the free world. I have had a chance to review the Fiscal Year 2007 Senate appropriations language which is very stern and very direct. There is much to be done. I truncated my introductory remarks. I could probably take the rest of your afternoon here describing what needs to be done, but I am not yet associated with the Department of Homeland Security. I've not been in the consultant role. All I can say to you sir, is that over the five plus years that I was at the Office of Naval Research, I encountered many of the same kinds of problems even though Office of Naval Research was very mature and a very effective organization, it was not customer or output-oriented. It was more provider and input-oriented and in today's world, time to market, time to delivery, customer focus for the front line whether they're local, state, tribal, or first responders under the auspices of the Department of Homeland Security, they must have near-term enhancements as well as long-term leap ahead improvements and capability.

And so, if confirmed, I will bring the same management approach and leadership approach and hands-on personal involvement that you saw at the Office of Naval Research to get our budget process right, get our requirements process right, get our balance between long-term research and near-term enhancements and deliverables right with full disclosure to the Congress. And it's a big job, and Senator I know frequently you hear that when individuals leave government, they say its to spend more time with their family, but my lovely wife, Nancy, reminded me that coming back in the government, it was to spend less time with my family, and so it's a great challenge and I look forward to it sir, if confirmed.

Senator INOUE. Well, Admiral, we look forward to working with you, sir. Since time is of the essence here, may I now go to Mr. Connaughton.

We have this cargo preference requirement. How will you strengthen compliance, and oversight of that?

Mr. CONNAUGHTON. Thank you very much for the question, Senator Inouye. Obviously, one of the responsibilities of the Maritime

Administration is to help enforce the cargo preference laws of the United States. I am generally familiar with these laws. I've been briefed from members of the Maritime Administration regarding how they currently do that type of enforcement. If I am confirmed, I will make sure that we enforce those laws and that we'll end up with a system that is transparent and that people know what the requirements are and that those requirements are followed in accordance with the law, sir.

Senator INOUE. Am I correct to assume that you support the intent and purpose of the Jones Act?

Mr. CONNAUGHTON. Mr. Co-Chairman, I will tell you that the Administration strongly supports the Jones Act and I strongly support the Jones Act as well, sir.

Senator INOUE. In your testimony you mentioned that you hope to bring the U.S. flag fleet back to the predominant role it once had. How do you plan to do that?

Mr. CONNAUGHTON. Mr. Co-Chairman, I appreciate that question very much and if I am confirmed, I will work very closely with yourself, with this committee and other Members of Congress and the industry to work together cooperatively, to develop a shared vision about where we want to see the maritime industry, and the marine transportation system in the future. I recognize this is a very, very tall order, and one of the things, if I am confirmed, I will focus on immediately is meeting with industry leaders, meeting with Members of Congress and staffs and within the Administration to help develop a long-term plan on how we make the U.S. industry more competitive and how we make sure that it fits in within the long-term strategic goals and plans of the Department of Transportation.

Senator INOUE. Thank you very much Mr. Weinecke. As a member of an island state, I am naturally concerned about the mission of NOAA, and I concur fully with Chairman Stevens' view on NOAA. Do you believe that NOAA is very important?

Mr. WEINECKE. Mr. Co-Chairman, NOAA is a critical and integral part of the Department. One of my primary focuses over the last year has been the re-authorization of the Magnuson-Stevens Act and the NOAA Organic Act, the National Offshore Aquaculture Bill, the Marine Mammal Protection Act. The Department of Commerce and the Administration is absolutely committed to these. They will strengthen NOAA, make it a better place and more effective and you have my commitment to work with you hand-in-hand to pass these critical pieces of legislation.

Senator INOUE. Thank you very much. I wish to commend all of you for coming forward to serve our Nation, and I can assure you that this committee will help you in your work. Congratulations on your nominations.

The CHAIRMAN. Thank you Senator.
Senator BURNS.

**STATEMENT OF HON. CONRAD BURNS,
U.S. SENATOR FROM, MONTANA**

Senator BURNS. Thank you Mr. Chairman. I have one question, and that is of Mr. Nottingham and I have some other questions, but I will forward them along later. Previous nominees, Mr. Not-

tingham, have sat right in that same chair that you're sitting in right now and promised this committee they'd get the small rate case procedure in place on the Surface Transportation Board and it has yet to come. They made those commitments about transparency and improved procedures, enhanced competition and a whole host of promises. You tell me why you're going to be any different than the ones that preceded you?

Mr. NOTTINGHAM. Thank you for the question, and thank you for the time you've given me personally in your office to better understand the challenges that confront your great state, Montana and for introducing me to some of your constituents from the grain and wheat industries. And your staff has helped educate me on many of your concerns as well. I can't speak for former nominees. I can only tell you who I am and what experience and commitments I bring forward if confirmed to the STB. I am dedicated to making government work better for the people. I've done that. It's not just a slogan. I've done it in Virginia when I ran one of the largest and most complex State agencies there and delivered over 100 management reforms tackling problems that people had complained about for decades, and I've done it throughout my career working back on the Government Committee on the House side and with Congressman Davis trying to resolve problems.

And I will, if confirmed, pledge to you to work closely with you and your staff and your people and tackle the issues, get in there and really learn the details of the challenges. I am concerned about the time it seems to take and the cost that it seems to take to pursue a claim before the STB. I have heard loud and clear from stakeholders that it has a somewhat a chilling effect on conflict resolution which is one of the missions of the STB, and I am committed to getting in there, if confirmed, and identifying those problems and tackling them. And if we can't tackle them administratively there, to bring ideas and recommendations forward to work with Congress to make sure they get addressed.

Senator BURNS. Well I thank you and I thank you for meeting with some of the people of my constituents and I would appreciate that. There is no doubt in my mind that you're not going to be confirmed. You can rest easy on that. That's the only question I have as time is of the essence, and I have another—but I too want to echo the words of my good friend from Hawaii. I thank you for stepping forward, all of you to serve your Nation. It is great that we still have people that put the Nation's interest and the citizens of the United States before themselves and serve this great country with great talent and intelligence and with great integrity, and so we appreciate every one of you stepping forward and doing that.

And Mr. Chairman, thank you very much.

The CHAIRMAN. Thank you very much. Let me tell all of you nominees that there have been questions filed from both sides of the aisle which we would ask you to respond to. If we can get the responses quickly, we will try to have the meeting off the floor of our committee sometime early next week, so we can get these nominations up and confirmed. We have to report them first so they go on the calendar and then they are subject to review by all of the Members of the Senate, but we will do our best to get them cleared before the end of next week when we expect to recess for

our August period. And let me again, Admiral, tell you that we appreciate you bringing Mrs. Rickover. We remember so well meeting with your husband so often, the Admiral, and how gracious he was and how much he contributed to the future of our Navy, so we thank you for taking the time to come with Admiral Cohen.

Thank you all very much. Do you have any final statements, Senator?

Thank you all very much. We will do our best to get these nominations cleared before we leave.

[Whereupon, at 11:55 a.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. FRANK R. WOLF,
U.S. REPRESENTATIVE FROM VIRGINIA

Mr. Chairman, it gives me great pleasure to lend my support today to Sean Connaughton to become the next Administrator of the U.S. Maritime Administration.

As the U.S. Representative of the 10th Congressional District of Virginia which includes parts of Prince William County, I have had the privilege of working with Sean in his capacity as Chairman of the Prince William County Board of County Supervisors. He is a dedicated public servant who has diligently worked to address issues facing fast-growing suburban counties like Prince William. He has done so working in a bipartisan manner to promote the county as a great place to live, work and raise a family while also protecting the interests of Prince William citizens.

While he has devoted the past 7 years serving Prince William County, his education and experience make him well qualified to lead the U.S. Maritime Administration. He is a graduate of the U.S. Merchant Marine Academy where he received his bachelor's degree in 1983. From 1988 to 1992, he was the Senior Marine Transportation Associate for the American Petroleum Institute. He worked as a civil servant for the U.S. Coast Guard from 1986 to 1988 and served on active duty in the U.S. Coast Guard from 1983 to 1986 and in the U.S. Naval Reserve from 1986 to 2006.

Sean is a man of honor and integrity. He understands transportation and maritime issues and will serve our country well as the Administrator of the U.S. Maritime Administration.

Mr. Chairman, I urge the Committee to recommend his confirmation. Thank you again for the opportunity to address the Committee.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO
ADMIRAL JAY M. COHEN

Question 1. If confirmed as Under Secretary for Science and Technology (S&T), would you consider the use of commercially-available devices, services or technologies to fulfill the mission of S&T?

Answer. In my experience in Naval S&T at the Office of Naval Research, there are generally three options available for use to fulfill service/agency missions: Commercial off the Shelf (COTS), Modified/Militarized off the Shelf (MOTS) and Government off the Shelf (GOTS) (or as I think of it, what you already "got"). If confirmed, I would absolutely consider (and favor due to cost, technological currency, ease of update/modernization and generally wider spread utilization across society) the use of commercially-available devices, services and technologies wherever and whenever they made mission and economic sense.

Question 2. If confirmed as Under Secretary for Science and Technology, you would be responsible for developing standards for first responder equipment and technology. In this role, do you believe that such standards may include commercially-available devices, services or technologies?

Answer. If confirmed, I will, to the maximum extent practicable, utilize standards that include commercially-available devices, services and technologies to better support local, state and tribal first responders. Where such commercial solutions are not available or immediately applicable, due to unique Homeland Security mission requirements, lack of an existing commercial industrial base/market or national security considerations, if confirmed, I will work with government/defense, industry and professional organizations responsible for developing, recommending and setting standards in order to leverage and optimize commercial solutions to the fullest.

Question 3. In your role as Chief of Naval Research, what was your experience in using commercially-available devices, services or technologies?

Answer. As Chief of Naval Research I strongly encouraged the use of commercially-available devices, services and technologies to speed “time to market” for our Sailors and Marines in combat. When commercial solutions are objectively evaluated and applied to Naval needs, my experience was that they generally performed well *and* were available for use in less time and at lower cost than uniquely government solutions.

As an example, in 2000, I established at ONR, a web-based “Technical Solutions” Group which received input and requests directly from Sailors and Marines. These young men and women are “tech savvy”. While acquisition systems commands are the customer for Naval Research S&T output, Sailors and Marines are the “customer of the customer”. I considered their needs to be important and therefore developed an efficient and credible method to address their challenges.

When problems or suggestions were received by Tech Solutions, ONR would “broker” those to what I termed the Naval Research Enterprise; naval warfare centers, university and laboratory partners *and* industry so that they might compete to provide the most effective technology solution, at lowest cost in the required timeframe. Examples of deliverables which utilized commercial technologies include long life (nearly maintenance free) LED shipboard battle lanterns, commercial Draeger tubes with slightly modified/militarized electronics for reliable contaminant sensing in the field, “LightSpeed”—a commercial pulsing LED technology which we only “packaged” for secure, reliable Line-of-Sight communications both at sea and ashore, web-enabled Voice-over Internet Protocol underwater communications for Navy SEALs and even a “Zamboni” to degrease aircraft carrier flight decks in the 130° F heat of the Arabian Gulf.

If confirmed, I will continue to emphasize use of commercial solutions and ensure that similar, customer friendly responsive tools are put in place at DHS S&T.

Question 4. Do you believe that there is a role for “Voice-over-Internet Protocol” technologies in fulfilling the mission of interoperability between first responders?

Answer. Interoperability has been and regrettably remains one of the biggest challenges not only for homeland first responders, but our 21st century military as well. Voice-over-Internet Protocol (VoIP) is a rapidly developing tool (one of many) that I believe should be further explored for wider use by first responders.

If we are to be successful in effectively and efficiently meeting the challenges which our first responders face from both natural and manmade events/attacks not only must their command, control, communications and computers be interoperable, but the system must also be reliable and rapidly scaleable from the smallest agency component to the DOD and other major Federal and international law enforcement and disaster response organizations. These capabilities must be achieved at an affordable cost with security that prevents system integrity from being compromised or worse, subjected to being hacked/deceived. The World Wide Web is ubiquitous and “self healing” because of the large number of alternate nodes, transmission paths and means for maintaining communications among first responders at different locations and chain of command levels. I personally believe VoIP could play a significant role in fulfilling mission interoperability between first responders.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. TRENT LOTT TO
ADMIRAL JAY M. COHEN

Question. You did a great job getting Navy R&D focused on the needs of the Navy war fighters. At DHS, you will have a similar challenge, but with more agencies. Some of these agencies brought their own R&D programs to DHS. How would you focus DHS R&D to better serve the needs of front-line homeland security personnel and reduce the risk of transitioning new technologies into everyday DHS operations?

Answer. Senator Lott, First allow me to thank you for your strong and sustained personal support for R&D and especially Science & Technology (S&T) in our Navy and Marine Corps. You understand the value of a balanced research portfolio that delivers immediate enhancements to our DOD war fighters and our DHS first responders *now*, as well as the need for thoughtful, sustained and focused long-term basic research into those areas and disciplines that will yield the “Eurekas” or breakthroughs that fundamentally change how we approach a problem.

I appreciate your kind words for my service in the Navy in time of war. I can assure you any successes our scientists and engineers enjoyed in enhancing the capabilities (and protection) of our Sailors and Marines were the result of a team effort that included DON, Congress, government agencies, industry, research institutions, innovators (large and small) and the direct involvement/voice of the fighting personnel whose success and lives depend upon the output and products from R&D.

As you noted, DHS has more agencies (about 20+) than DON and in what is a new Department (DHS), some agencies have had their own R&D programs/laboratory facilities. While the magnitude of the challenge today at DHS to bring together varying agency “cultures” in order to better focus DHS R&D in support of front-line homeland security personnel (the DHS ‘customers’ for our R&D/S&T OUTPUT) is greater than that which I faced in Navy, the fundamentals are similar.

While I am not currently either an employee of or consultant to DHS, I have studied the DHS enabling legislation (especially that portion which established the DHS S&T Directorate). The guidance in that legislation is comprehensive and clear in its desire to create a lean, agile, efficient and highly effective R, D, T&E organization to leverage and enhance existing U.S. Government research initiatives, activities and laboratories so as to avoid duplication where possible and better focus on the unique needs of our first responders where other research activities are not. Any successful S&T management organization (like the Office of Naval Research) has both science and technology providers along with research and development product customers. Time frames, investment portfolios, level of technological risk and personnel (*i.e.*, scientists versus engineers versus program managers, budget and contract specialists) vary from discipline to discipline and customer to customer. If confirmed, I would use the same proven principles and methods at DHS, which I helped enhance at ONR to more directly and continuously involve the first line responders in setting requirements and needs (DEMAND), while empowering the scientists and innovators on the “input” side (SUPPLY). When you give the customer what they want and need and you focus the underlying technology discovery and invention on the customer through ongoing give and take dialogue, *risk* of transition is greatly reduced and the Nation benefits. It wasn’t easy with the Air, Surface, Sub and Land “unions” in DON. With your support, I look forward to the challenges of service at DHS.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN E. SUNUNU TO
ADMIRAL JAY M. COHEN

Counter-MANPADS Program

Question 1. As we discussed when we met last week, the Counter-MANPADS program was appropriated \$110 million in FY06 to complete Phase III of the program, which was the flight testing of two systems in “real-world” operations. The Department took about \$20 million from the program to use for other purposes, and I commend your attention to report language on that topic in the Senate’s version of the FY07 DHS appropriations bill. This reprogramming caused the Counter-MANPADS office to forego a passenger aircraft study of a system and conduct only cargo aircraft study.

DHS created the Counter-MANPADS office to develop a system or systems to protect domestic aircraft from shoulder-fired missiles so that Congress and other policymakers could then determine whether to utilize this technology. Protecting cargo aircraft is important, but we all know the protection of our passenger aircraft is of primary importance. Of course, the operations of cargo aircraft are profoundly different than the operations of passenger aircraft. For DHS to submit a report to Congress on the findings of the Counter-MANPADS program without having flight tested a system on passenger aircraft would be counterintuitive, and provide an incomplete assessment to policymakers of available technology. To address this, the Senate included an additional \$35 million above the President’s FY07 request for the Counter-MANPADS program so the Department may conduct a study of a system on passenger aircraft, and addressed this in the report accompanying the bill.

Will you protect the remaining FY06 funds, and future funding for the Counter-MANPADS program from future reprogramming?

Answer. Senator Sununu, first allow me to thank you for taking your valuable time to meet with me and share your concerns regarding the Department of Homeland Security. As we discussed, if I am confirmed as the Under Secretary for Science and Technology at DHS, I will work with the Congress, staff, industry, research institutions/laboratories/academia to provide our first responders and the Nation the capabilities to meet not only our most pressing immediate threats, but also invest in the basic research necessary to prevent future technological surprise and achieve “leap ahead/game changing” technological advantage over those that would threaten our way of life and freedoms. As you suggested, I have reviewed the stern report language in the Senate’s version of the FY07 DHS appropriations bill.

I am neither an employee of nor consultant to DHS. I have not been made privy to the contents of what I understand is an overdue DHS post-Phase II Counter-MANPADS program report.

While I am not presently knowledgeable of the DHS program, having recently completed more than 5 years as the Chief of Naval Research, responsible for the Office of Naval Research in the Department of the Navy in wartime, I am very familiar with the Tactical Air Directed Infra Red Counter Measures (TADIRCM) program. Navy research has been working on this important countermeasure for more than a decade at the Naval Research Laboratory, White Sands Proving Ground and China Lake, CA. This development program has resulted in a highly effective IR countermeasure device that has been successfully installed/tested on flying drone aircraft against actual MANPAD weapon firings. I understand that Naval Air Systems Command (working with commercial defense contractors) is in the process of transitioning this capability to Navy and Marine Corps F/A 18 aircraft and that some U.S. Army helicopters are already equipped with TADIRCM. If confirmed to be the next Under Secretary for Science and Technology at the Department of Homeland Security, I will bring this technical knowledge and program management experience to the DHS Counter-MANPADS program.

Additionally, if confirmed, I will work with the Congress to spend FY06 and future Counter-MANPAD funding as intended and ensure that overhead costs associated with the Counter-MANPAD program are *absolutely* minimized.

Question 2. Do you agree that a study of available Counter-MANPADS technology must be conducted on passenger aircraft to ensure a full and complete assessment of the technology's applicability to commercial aircraft, and will you make sure such a study is conducted?

Answer. As you indicated above, cargo and passenger aircraft operations are different. To the extent that Counter-MANPADS tests on either type aircraft could be used to determine the best solution to both, I think that would be a good use of taxpayer dollars. If the DHS post-Phase II Counter-MANPADS report (which is due to Congress) does not adequately address the unique operational differences between cargo and passenger aircraft, if confirmed, I will ensure that an assessment of available Counter-MANPADS technology for passenger aircraft will be expeditiously conducted.

Commercial Port Security

Question 3. The possibilities of attack from water-based operations at our commercial ports are endless. Although there are systems available to detect these threats in the military world, we know that the costs of these systems currently prohibit their introduction into the private sector. During your tenure at the Office of Naval Research, more cost-effective swimmer detection sonar networks were studied and evaluated with great success. The maturity of these ONR-funded systems leads one to believe that DHS would be well served to evaluate the work that has come from the ONR efforts. Given your success at ONR in developing these sonar networks, what are your plans for doing so at DHS for commercial applications?

Answer. Senator Sununu, as you note, the possibilities for attack at our commercial ports are endless. That includes not only water-based, but also air and land attacks. Thank you for your kind words concerning the efforts of the Office of Naval Research to develop and demonstrate (in real-world situations) effective swimmer detection sonar networks. If confirmed (and consistent with the enabling legislation for the DHS S&T Directorate), I intent to leverage *all* government agencies/laboratories as well as private industry (large and small) and international partners/allies to rapidly make available mature (and nearly mature) capabilities to our Nation's first responders and DHS agencies tasked with protecting America. As I noted in my response to your Counter-MANPADS question above, because of my tenure at ONR in wartime and my knowledge of the portfolio and capabilities that exist there, at DHS, I would not hesitate to adapt and use those proven technologies (such as swimmer detection sonar networks) that our taxpayers have already invested in.

Question 4. Will these plans include a full evaluation of systems operating now, such as the system developed and produced domestically and being used by Singapore's Navy?

Answer. I think it would be wise to evaluate the operational effectiveness of the various swimmer detection devices both under development and in use in America and the rest of the world. I am personally familiar with the domestic U.S. system that has been installed and tested in Singapore. I had the opportunity to visit Singapore last fall and observe the integrated swimmer detection sonar/radar/visual integrated network in operation. If confirmed, I would strive to make the best/affordable seaborne threat detection systems available for use in our harbors and port facilities.

Small Business

Question 5. Another issue we touched on last week when we met was the ability of small businesses to bring forth ideas for securing our homeland to the Department. Businesses across New Hampshire have expressed frustration to me over their inability to “get an audience” with DHS. When you are at ONR, a company’s ability to “get an audience” was typically not a problem. What are your plans to ensure innovative ideas and technologies are able to be brought to DHS for appropriate evaluation of their ability to provide solutions to homeland security challenges?

Answer. As you noted, I had a reputation at ONR for being accessible to businesses (both large and small) as well as innovative/entrepreneurial individuals to give their ideas “an audience”. Often these unsolicited initiatives from outside government resulted in significant opportunities to improve the technological advantage our Navy and Marine Corps fields in defense of America. When concepts or inventions presented were not yet ready for further development/funding, ONR program managers were candid with the providers and attempted to provide constructive recommendations or alternative approaches which would allow the offerer to reengage ONR with a product more closely aligned with Naval war fighting gaps and requirements. If confirmed, I will quickly evaluate the means and methods at DHS that are intended to encourage innovation and communication with business and determine their effectiveness. I will not hesitate to put in place those personal and web-based programs that I established at ONR to make the DHS S&T Directorate more “customer” accessible and friendly. Additionally, If confirmed, I will use *all* the tools which Congress has wisely established over the years, such as Small Business Innovative Research (SBIR) funding and processes to the fullest extent.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BARBARA BOXER TO ADMIRAL JAY M. COHEN

On February 15, 2006, Charles McQueary, the former Under Secretary for Science and Technology at the Department of Homeland Security, testified before the House Science Committee. During his testimony, Secretary McQueary told the Committee that following Phase II of the Counter-MANPADS program, “DHS will provide a report detailing the equipment performance, projected costs, and potential deployment options [of countermeasure systems.] The anticipated release date for the report is mid- to late-March 2006.”

Dear Senator Boxer,

You asked me several questions regarding the Counter-MANPADS program at DHS. First allow me to thank you for your strong personal interest and support to better protect our aviation fleet from terrorist attack.

I am neither an employee of or consultant to DHS. I have not been made privy to the overdue DHS post-Phase II Counter-MANPADS program report. I have however asked DHS to get the report to you immediately. In the interim, DHS has provided the answers below to your questions. While they are not intended to be a substitute for the report, I hope they are helpful in explaining the status of this important program.

While I am not presently knowledgeable of the DHS program, having recently completed more than 5 years as the Chief of Naval Research, responsible for the Office of Naval Research in the Department of the Navy in wartime, I am very familiar with the Tactical Air Directed Infra Red Counter Measures (TADIRCM) program. Navy research has been working on this important countermeasure for more than a decade at the Naval Research Laboratory, White Sands Proving Ground and China Lake, CA. This development program has resulted in a highly effective IR countermeasure device that has been successfully installed/tested on flying drone aircraft against actual MANPAD weapon firings. I understand that Naval Air Systems Command (working with commercial defense contractors) is in the process of transitioning this capability to Navy and Marine Corps F/A 18 aircraft and that some U.S. Army helicopters are already equipped with TADIRCM. If confirmed to be the next Under Secretary for Science and Technology at the Department of Homeland Security, I will bring my technical knowledge and program management experience to the DHS Counter-MANPADS program.

If you think that there is more that I need to know before confirmation by the Senate, I would be pleased to meet with you and/or your staff at your convenience. If confirmed, I commit to meet with you and/or your staff within the month following my assumption of duties at DHS to clearly state the status of the Counter-MANPAD program and details of the way ahead to better protect our airline passengers, cargo and aircraft from attack.

The Following Answers Were Provided by DHS:

Question 1. When will this report be delivered to Congress?

Answer. Our hope is this report will be delivered to the Congress on Monday, July 31st.

Question 2. Will it include details on potential deployment options, as promised by Secretary McQueary? If not, when will those details be provided to Congress?

Answer. The Phase II report discusses several potential deployment alternatives, including three *example* deployment quantities: 100 mixed wide-body aircraft, representative of the size of the U.S. Civil Reserve Airlift Fleet (CRAF); 600 wide-body passenger aircraft; and, a 3,900 mix of wide- and narrow-body passenger aircraft. It presents cost metrics for the example quantities and discusses potential acquisition strategies and funding sources. The report also discusses key deployment risks and concerns.

The Counter-MANPADS program is in the process of conducting a more complete assessment of potential alternatives, acquisition strategies, funding approaches, deployment risks and concerns. Another assessment of alternatives will be performed near the end of Phase III using updated cost of ownership estimates based on Phase III in-service operational data and other results, such as military technology protection and export issues. Those results will be reported to Congress at the end of Phase III.

Question 3. It is my understanding that Phase III of the Counter-MANPADS program will include the operational test and evaluation of two competing countermeasure systems. On what date will countermeasures be operational on actual commercial aircraft?

Answer. During Phase III, one company will be installing systems on nine cargo aircraft for in-service operational evaluations. The first aircraft with the system installed is scheduled to begin flying in revenue service the first quarter of 2007.

Question 4. What steps are necessary to ensure that the deployment of countermeasure systems are in compliance with the International Traffic in Arms Regulations?

Answer. Under current interpretations of the International Traffic in Arms Regulations (ITAR), U.S. airlines would need to apply for an export license every time an aircraft with the Counter-MANPADS system installed was to fly outside the U.S., which would be unacceptable to airlines. Counter-MANPADS systems could not be deployed on foreign-operated aircraft without additional licensing measures.

Legislative relief would very likely be necessary to effectively deploy, operate and maintain the systems world-wide, which would consist of limited exceptions to the Arms Export Control Act and its implementing regulation, the International Traffic in Arms Regulation, or ITAR.

The Counter-MANPADS program has been coordinating extensively with the Directorate of Defense Trade Controls (DDTC) at the Department of State, and other relevant agencies, such as the Defense Technology Security Agency (DTSA), the Air Force Research Laboratories (AFRL) and NSA, to define technology security requirements and develop deployment solutions that will both preserve the integrity of the system and protect sensitive military technology. Counter-MANPADS program representatives have recently met with DDTC-Policy and DDTC-Legislative personnel to discuss development of appropriate legislative language.

Question 5. Will you work with the Department of Defense to ensure that commercial aircraft utilized by military personnel (such as the Civil Reserve Air Fleet) are protected from the threat posed by MANPADS?

Answer. The CRAF program is a partnership between the Department of Defense and the U.S. aviation industry. The U.S. Transportation Command (TRANSCOM) administers this program through the Air Mobility Command (AMC). AMC has a working relationship with the U.S. Air Force and is working on total CRAF protection, including countermeasures for MANPADS. The Counter-MANPADS Program has involved TRANSCOM and AMC throughout Phases I and II; they have attended many of the program office reviews, are aware of our accomplishments, and, so far, are keenly interested in one of our DIRCM system approaches.

If the decision is made to deploy Counter-MANPADS systems on the Civil Reserve Air Fleet (CRAF), DHS will work with the Department of Defense and the responsible airlines to equip those aircraft. Since the specific aircraft designated as CRAF can change monthly, the decision as to how to deploy is complicated. One of our cost estimates during Phase II was based on 100 wide-body aircraft, which is representative of the size of the first stage of the CRAF. This provides an estimate of cost, but further work needs to be done with DOD to provide a more comprehensive plan for CRAF deployment.

Question 6. The Bush Administration only requested \$4.8 million for the Counter-MANPADS program for Fiscal Year 2007. The Senate version of the Fiscal Year 2007 Homeland Security Appropriations bill provides an additional \$35 million for a comprehensive passenger aircraft suitability assessment. If signed into law, will this assessment include the operational test and evaluation of the two competing countermeasure systems on commercial passenger aircraft?

Answer. If the final Fiscal Year 2007 Homeland Security Appropriations bill includes an appropriation of \$35 million to be spent for a comprehensive passenger aircraft suitability assessment, DHS will determine the most effective approach to achieve the objectives. This may include installing one or both of the competing countermeasure systems on commercial passenger aircraft.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN E. SUNUNU TO
NATHANIEL F. WIENECKE

Question. NMFS has before it Framework Adjustment 43 to the Northeast Multi-species Fishery Management Plan, which would impose limitations on the bycatch of haddock for New England herring vessels. A problem in New England has been that recent haddock classes have been exceptionally large preventing herring vessels from avoiding incidental catch.

Under NMFS designated emergency rules enacted last year, which expired on June 6, 2006, there were limits on incidental catch of haddock allowed for New England herring vessels. Framework 43 is an effort to impose permanent rules.

NMFS put Framework 43 out for comment on June 21, 2006 and the comment period has since closed (July 6, 2006). Unfortunately, I understand that completion of final rules for Framework 43 may not occur until late August or later. Until new rules can be finalized, New England herring fishermen are in a difficult situation: they can be prosecuted for the possession of as little as one haddock. This forces NE herring vessels to cease fishing or travel to distant areas to avoid catching haddock.

While you do not focus exclusively on NMFS, what is the exact status of this item and when final rules can be expected?

Answer. As you noted in your question, the comment period on the proposed rule for Framework 43 closed on July 6, 2006. NOAA Fisheries Service received several comments on the proposed rule, some of which raised issues that required further consideration. I am advised that NOAA Fisheries Service has prepared a final rule package for submission to the Secretary of Commerce which is currently undergoing final review within NOAA. We expect the final rule to become effective in early August.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TRENT LOTT TO
SEAN T. CONNAUGHTON

Question 1. I am very concerned about the state of our country's commercial shipbuilding and ship repair industry. The Congress, at my urging, recently changed the Title XI law to give MARAD more flexibility to make that program work better and authorized a small shipyard assistance program and an MSP vessel repair program. Please describe how you intend to ensure these programs work well. Please also provide any other ideas you have for increasing domestic shipbuilding and ship repair.

Answer. The primary purpose of the Title XI program is to promote the growth and modernization of the U.S. merchant marine and U.S. shipyards. The program enables owners of eligible vessels and eligible shipyards to obtain long-term financing with attractive terms. The Administration is not currently seeking additional funds for the Title XI program, however, it is the prerogative of the Congress to do so if it desires. If funds are appropriated by Congress and if I am confirmed, I would seek to allocate those funds in a manner that would leverage private financing and export opportunities in order to maximize the benefits of increased Federal funding to the shipbuilding and repair industries.

Question 2. After Hurricane Katrina, the Administration issued a temporary blanket Jones Act waiver for the shipment of bulk petroleum products and was slow in returning to case-by-case need determinations. If the Gulf oil patch takes another big hit from a hurricane, how will you protect U.S. Jones Act operators while facilitating oil flow?

Answer. Since 1920, the Jones Act has been in place to encourage a strong U.S. merchant marine for both national defense and economic security by requiring the Nation's domestic waterborne commerce be reserved for vessels built in the United

States, owned and crewed by American citizens, and registered under the American flag. The Jones Act continues to be the foundation for America's domestic shipping policy. The Customs Service has direct responsibility for enforcing the provisions of the Jones Act and is statutorily limited to granting waivers from the Act only in the interest of national defense or for a vessel in distress. If I am confirmed, I will work to ensure that any waivers granted by the Customs Service meet the letter and spirit of the law and are used only in exceptional circumstances.

Question 3. The U.S.-flag fleet depends on U.S. preference cargo to remain competitive with foreign ships. I am concerned that some U.S. Government procurement officials in DOD and USAID exploit shipment scheduling notices to avoid them. Will you commit to the Committee that you will work with other agencies and departments to clarify policies with respect to scheduling shipments through MOUs or other written agreements?

Answer. Yes.

Question 4. MARAD's management of the National Defense Reserve Fleet scrapping program was not effective, but is recently improving. It takes too long to get rid of these leaky old ships that are tied up in VA, TX, and CA. How do you intend to address this potential hazard?

Answer. I understand Congress's desire to remove obsolete vessels from the National Defense Reserve Fleet as quickly as possible. To accomplish this in a timely manner, the Maritime Administration must initially focus on the dismantling of the highest priority vessels. If confirmed, I will consider all viable alternatives to disposal, including the expansion of disposal capacity, exploring new technologies to speed and lower the costs of dismantling, examining innovative contracting mechanisms, and looking for alternatives to disposal such as utilizing vessels for artificial reefs and/or donations.

Question 5. For years, this Administration has said that it is developing a SEA-21 plan to increase the use of short sea shipping in the U.S. to relieve highway and rail congestion, but we haven't seen it yet. I am concerned that the Administration isn't willing to invest real dollars in the program. What role do you plan to take to see this initiative comes to fruition?

Answer. As a local government leader from a jurisdiction which I-95 transverses, I know firsthand the imperative need to seek alternatives to the interstate highway system for our personal and commercial mobility. The Maritime Administration has done research on short sea shipping for several years. If confirmed, I will be an advocate within the Administration for the development and implementation of a robust short sea shipping system to help reduce growing freight congestion on our Nation's rail and highway systems.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CONRAD BURNS TO
CHARLES D. NOTTINGHAM

Question 1. As you know, the goal of the Staggers Act is to strike a balance between providing financial stability for railroads and ensuring that the benefits of competition are available to shippers. In the past, there may have been some justification for focusing more on the revenue adequacy of railroads, given the difficult financial situation they faced. However, I am concerned that today, the balance has tipped too far in favor of the exclusive interests of the railroads, ignoring the fact that competition should be the goal of our Nation's rail network.

Mr. Nottingham, do you believe the railroads still need to be protected from competition, or could both railroads and shippers benefit from a more market-driven industry? As railroads become more revenue adequate, is it reasonable to say that the assumptions underlying past STB efforts to protect the railroads should be revisited?

Answer. The Staggers Act is generally viewed as having helped to successfully reverse the trend toward railroad bankruptcies and financial distress in the freight rail industry that existed prior to and during the early years of the Staggers Act. Today the Class I railroads are generally experiencing profits and increased demands for service. Based on most freight forecasts and economic and trade realities, it is reasonable to assume that the entire freight transportation sector, including railroads, should continue to experience heavy demand growth and, consequently, growth in revenues. The Government Accountability Office's (GAO) recent preliminary report released at the June 21, 2006 hearing of the Senate Subcommittee on Surface Transportation and Merchant Marine elaborates on the overall positive economic health of the freight railroads.

If confirmed, I intend to closely examine whether the statutory, regulatory and case law regime that evolved during the earlier period of financial distress in the railroad industry still makes sense and is in the public interest in today's environment. While I need to refrain from prematurely taking a position on a matter or topic that could come before the STB for action, I can commit to giving the issues raised in your question full and fair consideration in the appropriate context.

Question 2. On June 21, this committee held a hearing on the freight rail industry. During that hearing, the GAO provided preliminary results of their investigation into a variety of issues facing the industry today. What is your reaction to the finding that the "share of potentially captive shippers who are paying the highest rates—those substantially above the threshold for rate relief—has increased"?

Answer. I am concerned that the GAO's *"Preliminary Observations on Rates, Competition, and Capacity Issues"* (June 21, 2006) report included the preliminary finding that is described in your question. I am informed by STB staff that GAO plans to complete its report and share a draft with the STB for comment later this year. If confirmed, I expect to carefully analyze all of the report's official findings and to consider appropriate action to address any actionable problems that fall within the STB's jurisdiction.

Question 3. What is your reaction to the GAO testimony that STB rate relief procedures are largely inaccessible to most shippers?

Answer. The preliminary finding described in your question is cause for concern. Congress has tasked the STB with important conflict resolution responsibilities. It is important that the processes, costs and timelines associated with resolving conflicts do not become unreasonably burdensome so as to inhibit the public's right to avail themselves of the STB's dispute resolution procedures. I am also concerned that the preliminary GAO report notes on page 22 that the simplified guidelines for certain types of dispute resolution that have been in place since 1997 are viewed by shippers and railroads as "confusing." The recently issued rulemaking on small rate guidelines will hopefully mitigate some of these concerns. Again, when the final GAO report is issued, I will, if confirmed, carefully analyze all of the report's official findings and consider appropriate action.

Question 4. Mr. Nottingham, when you were nominated to this position, I asked to you meet with shippers, both in Montana and nationwide. You agreed to do that, and I appreciate that. I understand you have already conducted a number of those meetings. After meeting with shippers, I would be interested to hear what your thoughts are on both the state of the rail industry as well as the role and reputation of the Surface Transportation Board.

Answer. It has been a pleasure to meet with your constituents from the wheat and grain sector, as well as a wide-range of other STB stakeholders. These meetings have all been purely informational and courtesy meetings where I have endeavored to introduce myself, describe my qualifications and listen to concerns of the various stakeholders. I have studiously avoided making any commitment that would interfere with the impartial and fair consideration of matters that might come before the STB.

The shippers and Montana constituents with whom I have met have communicated a consistently negative view of the freight rail industry and the STB's record of responsiveness to the concerns of shippers. I have not had extensive direct exposure to the freight railroad industry in a manner that would allow me to make conclusive statements about industry conditions or enable me to validate the concerns articulated by shippers. If confirmed, I would endeavor to become more familiar with the rail industry and to address any issues that warrant STB action.

With regard to the STB, I am deeply concerned that important stakeholders from the shipping sector voice a consistent concern that the STB is overly protective of the freight rail industry and has allowed overly burdensome, costly and lengthy conflict resolution procedures to exist. If confirmed, I will work to ensure that the STB is an open and transparent organization and to remove any unnecessary obstacles to the prompt, efficient and fair resolution of disputes. Human resource management will play an important part in the future success of the STB to accomplish its mission. Approximately 60 percent of the STB's workforce is currently eligible for full retirement and the next Chair of the STB will undoubtedly be in a position to make important decisions impacting the agency's ability to retain valued employees and recruit talented and dedicated new employees.

Question 5. I think we can all agree that investment in infrastructure is badly needed, and that there may be a role for the Federal Government to play in providing some incentives for that investment. Certainly, there is a public interest served by having a healthy railroad. But, I am concerned that captive markets won't

see much of that investment. In Montana, that means we are losing potential job creation and economic growth opportunities.

While the STB doesn't have a direct role in infrastructure expansion, I would be interested in your thoughts on how capacity investments can be shaped to provide enhanced competition and improved service in captive areas.

Answer. Through its statutory authority to review entry and exit into and out of the freight rail industry, whether by new construction, acquisition of existing rail, mergers and consolidation, line acquisitions, leases and abandonments, the STB has significant powers that impact rail infrastructure decisions. Regions of the United States that are dependent on freight rail and that are generally served by only one railroad are understandably concerned that market forces alone may not result in significant new rail capacity investments in these so-called "captive" markets. If confirmed by the STB, I will be open to a wide-range of enhanced rail infrastructure investments to meet our Nation's growing freight needs. While I believe that no region should be excluded from enhanced rail investment and service and barriers to such investments should be eliminated wherever possible, I also believe that the private sector is generally more efficient at making the business decisions required to set investment priorities and schedules than the Federal Government. If confirmed, I would work closely with Congress and all stakeholders to identify investment strategies that would benefit all regions and markets.

Question 6. As you know, there has been growing discussion focused on the anti-trust exemptions of the railroads. There is a serious discussion as to whether those exemptions are still justified, and as I am sure you know, legislation has been introduced to repeal those exemptions and place the railroads back under U.S. antitrust laws.

Will you, as Chairman of the STB, evaluate whether or not the antitrust exemptions for railroads should be repealed? Congress will have to act to repeal the exemptions, but I am wondering if you believe that the STB should be looking at anti-trust issues or not.

Answer. These issues are being studied by the Antitrust Modernization Commission. I will closely review the findings of that expert organization before attempting to formulate my own views in the matter.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TRENT LOTT TO
CHARLES D. NOTTINGHAM

Question 1. Which do you think is the more effective approach for balancing the need for freight railroads to earn adequate revenues with the need to protect shippers from unreasonable rates—maximum rate regulation or the introduction of additional competition through open access or some other means?

Answer. I am not an expert on the STB's procedures for assessing maximum rate reasonableness, and while I am generally familiar with the debate over competitive access in the railroad industry, I do not profess to know all of the details. Therefore, I do not believe I am in a position to answer this question at this time.

Question 2. The stand-alone cost test used by the STB in determining the reasonableness of a rail rate was developed in the context of rate complaints involving coal. As defined by the STB, the test prohibits a railroad from charging a shipper more than what a hypothetical new, optimally efficient carrier would need to charge the complaining shipper if such a carrier were to design, build and operate a system to serve only that shipper and whatever other traffic is selected by the complaining shipper to be included in the traffic base. In your view, is the stand-alone cost test the appropriate test for determining the reasonableness of rates involving chemicals, manufactured products, and other goods that do not move in trainload quantities?

Answer. The stand-alone cost (SAC) test has been upheld by the Federal judiciary and has been in use for many years. In my informational and courtesy meetings with STB stakeholders in recent weeks, I have heard many objections raised by shippers to the SAC test. Critics describe the high cost of developing a case using the SAC test and also complain that it is biased in favor of existing railroads. I believe that a set of new small rate guidelines could be responsive to the needs of shippers of smaller quantities. I should note that the freight rail industry has experienced enormous changes in the past 20 years, including handling significant container traffic and entering a period of financial strength and profitability. In this changed environment, I do not believe that the STB needs to be wedded to tests or policies that were developed in response to different market conditions. If confirmed, I will keep an open mind on these issues, consult with Congress and stakeholders and pursue actions that are consistent with relevant laws and in the public interest.

Question 2a. What, if any, alternatives to stand-alone costing do you believe should be explored?

Answer. While I am not an expert on different tests of rate reasonableness in the railroad market, I understand that this is a critically important issue that the STB has attempted to address and will likely continue to do so. I need to be judicious in not offering personal opinions before I have had the benefit of extensive exposure to these issues. I am familiar with the June 21 GAO preliminary report on the freight rail industry which includes a discussion of alternative rate relief procedures and strategies, including: simplified guidelines to streamline the process, especially for smaller rate cases; increased use of arbitration; increased use of alternative cost approaches such as the long-run incremental cost approach. The GAO notes, however, that each of these approaches has advantages and drawbacks. I look forward to carefully reviewing the final GAO report and will, if confirmed, work to take appropriate action to address any formal findings or recommendations that are made in the final report. Whatever test of rate reasonableness is used, it is important that the national policy need for railroads to make additional significant investments to improve rail infrastructure is recognized and respected.

Question 3. In regard to rail transportation, what in your judgment is the more serious problem—inadequate rail capacity or inadequate rail competition and how do both issues affect the economic well-being of railroads and shippers?

Answer. This question identifies two very significant challenges that confront our national economy: freight demand that is outpacing rail capacity in many areas of the country; and the lack of effective rail competition in many parts of the country. I have much to learn on both of these issues, but have extensive experience working on similar challenges that confront the Nation's highway system. I believe that we need to focus on increasing rail capacity to meet current and future demand, to relieve highway freight congestion; and to make rail service more reliable. If we succeed on these fronts, the economic conditions will be much more attractive for new entrants to take the risk and invest in the freight rail market. If confirmed, I will focus much of my energies on the need for environmental streamlining to ensure that important rail capacity improvement projects and applications for new rail service from new or expanding railroads do not get unnecessarily delayed by the environmental review process or by litigation. I have extensive experience in working on environmental streamlining and look forward to the opportunity to apply this experience at the STB.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TRENT LOTT TO
ROBERT L. SUMWALT III

Question 1. What type of relationship do you believe is appropriate between the NTSB and other transportation agencies? What actions will you take in an effort to facilitate such relationships?

Answer. I believe it is critical that the NTSB maintain an independent posture regarding other transportation agencies. The significance of NTSB's independent role was acknowledged by Congressional approval of the Independent Safety Board Act of 1974. This independence allows NTSB to autonomously investigate transportation safety issues and provide oversight of transportation regulatory agencies.

However, the Safety Board must also maintain a professional working relationship with those agencies. Although the independence of NTSB investigations is paramount, I also recognize that the most effective means of improving transportation safety is to see the Board's safety recommendations implemented. Therefore, the relationships with other transportation agencies must not degrade into defensive camps. Rather, open dialogue, transparent coordination, and professional exchange must be the foundation of these relationships.

If confirmed, in order to facilitate effective working relationships with transportation entities, I will ensure that NTSB safety recommendations are reasonable, well founded, and timely. When deficiencies are found in the efforts of other transportation agencies, I believe the Safety Board has a responsibility to firmly point out the problems, without seeking to disgrace the affected agency.

Question 2. The largest numbers of transportation-related fatalities are on our Nation's highways where more than 40,000 people are killed each year. What do you believe the Board's role should be with respect to highway safety?

Answer. I am very troubled that highway fatalities seem to have reached a plateau in recent years.

The NTSB's enabling legislation states that the Safety Board will investigate selected highway accidents "in cooperation with a State." Due to the sheer number of highway accidents, it would be impractical and undesirable for NTSB to inves-

tigate each and every highway accident. In order to devote its investigative resources wisely the Safety Board must be selective in deciding which highway accidents and safety issues to investigate.

Additionally, greater focus on the Board's safety advocacy role can improve the Board's impact on highway safety. I am aware that the Board currently has advocacy efforts underway on several highway issues such as improving child occupant protection, enacting primary seat belt enforcement laws, promoting youth highway safety, eliminating hard core drinking and driving, and improving school bus/grade crossing safety. Each of these initiatives are on the Board's list of Most Wanted Transportation Safety Improvements because they have demonstrated and measurable safety benefits. Although it is often up to states to enact laws to support highway safety improvements, the Safety Board should be a tireless advocate of these and other measures to improve safety on our Nation's highways.

If confirmed, I will explore innovative ways to collaborate with state governments and the National Highway Traffic Safety Administration (NHTSA) to draw much needed attention to reducing highway traffic accidents involving serious injuries and fatalities. I will also explore ways to successfully accomplish outstanding highway-related safety recommendations. Closing recommendations for the sake of closing them does not meet the Safety Board's objectives. I want to ensure that the integrity and intent of safety recommendations remain intact, and that they are adopted in a timely fashion to prevent further tragedies.

